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台灣與土耳其不動產交易稅負比較研究

**A Comparative Study on Real Estate Transactions
and Taxation in Turkey and Taiwan**

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摘要

本實務導向論文旨在比較台灣和土耳其在不動產交易的稅務後果，為了呈現出更好的結論，市場特徵、對外國人的限制以及本論文所述交易的每一個稅務後果都將以比較的方式進行詳細的審查和分析。

有鑑世界各國對不動產所有權、外國人可否取得不動產產權多有不同的規範。本文也分別說明台灣以及土耳其的不動產所有權法規以利讀者閱讀。

第三章將就本論文的研究重點進行詳盡說明，詳細說明台灣、土耳其不動產交易的稅務後果，以及所有權轉讓時，如財產稅和營業稅上，可能發生的相關其他稅收的稅收後果。

為了讓從業人員及對本議題有興趣的人能夠更瞭解本論文的宗旨，關於市場特徵的比較也會包含市場預測、徵稅實務以及對於外國人士的限制

關鍵詞：資本利得稅、台灣及土耳其不動產交易、台灣及土耳其租稅

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ABSTRACT

This practice-based thesis aims to identify tax consequences of real estate transactions specific to immovable sales in Taiwan and Turkey. In order to provide a better understanding, market features, restrictions to foreigners and each and every tax consequence of said transactions are examined and analyzed in a detailed and comparative way.

With respect to creating rights over immovable countries` regulations may differ from each other greatly that is deeply affecting foreigners` scope of eligibility which this paper covers related laws and regulations of both jurisdictions.

As main focus of this study tax consequences of immovable sales and related other taxations that are levied and may occur due to transfer of ownership such as property taxes and business taxes are covered and answered in the third chapter of this thesis.

Comparisons with respect to market features including forecasts, taxations and restrictions to foreigners are presented in order to paint a better picture for interested parties and practitioners.

Keywords: *immovable sales in Turkey and Taiwan, capital gain tax, taxation in Turkey and Taiwan*

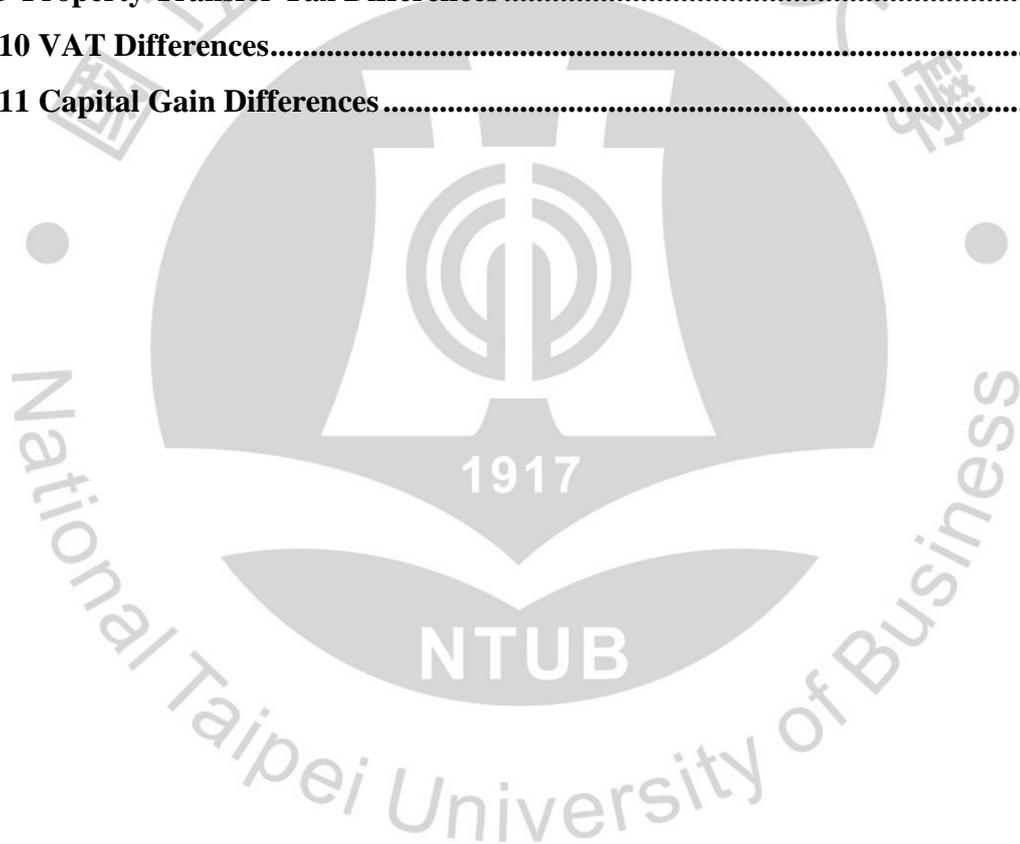
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Chapter 1. Introduction

1.1. Purpose of the Study

Having construction sector as one of the biggest ones, real property market has a great importance for Turkey and Taiwan. along with the local ones, foreign stakeholders also play a key role with respect to real property related investments and acquisitions. With stabilized successful returns and well doing market, it is still a promising opportunity for the ones looking for this line of investment.

For mentioned reasons conducting a systematic and comparative study on this commonly held matter of immovable sales and its consequences is needed. Research focuses on the differences and similarities with regards to application of real property sales and tax consequences of each country. Since it is our purpose to clarify this matter of real property sales in legal perspective specific to tax law, market analysis and prospects along with the laws effecting this subject matter other than tax regulations will be covered by this research.

1.2. Methodology

Research would be focusing on tax consequences of real property sales in Turkey and Taiwan for this reason it is planned to be a comparative study. Research is planned to focus on not only the regulations covering this specific matter but also the markets overviews and prospects. Regulatory comparisons is focusing on the type of taxes that are applicable and comparative analysis of the tax systems of the said countries along with the other laws which is effecting real property transactions such as restrictions, reciprocity rules etc. In order to deliver a clearer picture on the matter and gain a better understanding market performance, related figures and economic indications will be presented as well.

1.3. Expected Results

Based on the research findings, comparisons and analysis between the two systems will cover a wide range of matters related to the research subject. Given the differences between markets' characteristics and states' policies along with the priority status of the said issue and naturally incentives with regards to it, each case is expected to point out different results. Moreover, restrictions and consequences of having a real property will be examined to see whether they also differ.



Chapter 2. Turkish Real Estate Market and Taxation

2.1. Economy

With a GDP over US\$ 850 billion and %7.4 GDP growth rate in 2017, Turkey still stands as a promising market within the economic scale of the world (Word Bank, 2019).

Over the last 15 years Turkey has shown impressive economic development performance due to its sound investment environment and stability. During the years of 2003 and 2017 average GDP growth rate was % 5.8. Moreover, these improvements almost tripled country's GDP per capita and brought it up to US\$ 10.602 as of 2017. Same figure was only US\$ 3581 in 2002 (Presidency of the Republic of Turkey Investment Office , n.d.).

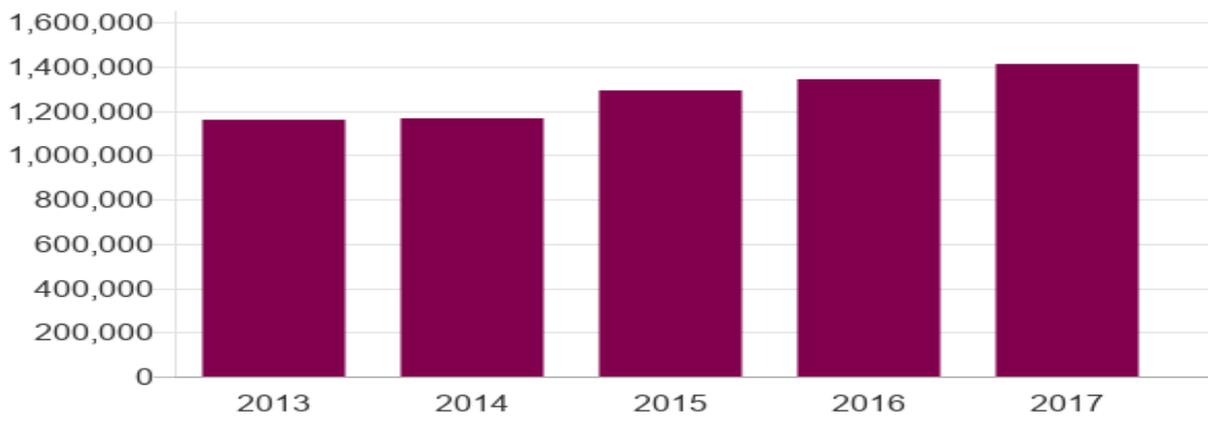
Mentioned figures are listing Turkey as the 17th largest economy in the world and 6th in the Europe. However, being a G20 and OECD member are not only features country offers. Along with its young population of 82 million and qualified work force over 31 million (Presidency of the Republic of Turkey Investment Office, n.d.), Turkey also has strategic importance in terms of many matters like energy and politics since it has special geographical position where it is a bridge between Europe and Middle East along with Asia. Furthermore, this geopolitical importance comes with strong diversity of neighboring countries in terms of historical rivalry, religion, political standing etc. and important varying associations Turkey takes part such as EU, NATO and Organization of Islamic Cooperation. Mentioned aspects of geopolitical features can seem as conflicted due to their opposite standings but in reality and historically Turkey has been carrying the role of a unification and integration factor and a place for different worlds.

Having a big share in Turkey's GDP more than %8 (Presidency of the Republic of Turkey Investment Office, n.d.), real estate sector is one of the most promising market Turkey

offers. According to Global housing price index by Frank Night, Turkey listed 6th in more than 50 economies with yearly rate of %11.1 (KnightFrank, 2017).

2.1.A. Home Sales

When it comes to home sales market performs well as it has been doing on price index . During the year of 2017 home sales reached out to 1.4 million (Turkish Statistical Institute, 2018). Following table covers the number of home sales for the previous 5 years (Özdemir, 2018).



Market performs similar accelerating statistics starting from 2004 however market itself and home sales shows inconsistent figures between 1992 to 2003 since the economy was hit by several recession and political instability.

Prices vary over the years in Turkish market as well as in its major cities like Ankara and Istanbul. Over the last 5 years without any exception market has performed increases on per square residential unit prices. According to the research prepared by the Turkish Central Bank at the end of 2017 average per square meter price for residential properties was TRY 2,112. Moreover, unit price increased by %82,5 for the last 5 years. Same research also shows each city's average figures including major cities of Istanbul and Ankara.

When it comes to market value Istanbul's average figures reaches at a level that is higher than country's average, respectively TRY 3,832 per square meter price . Same research also determines a % 113 of increase over the last 5 years.

Country's capital city of Ankara on the other hand performed slower performance than Istanbul and is being listed below the average with a figure of TRY 1,703 per square meter average price. Last 5 years increase on the same per unit price is lower than Istanbul's and it is % 59.

Third largest city of turkey which is Izmir performed better than country`s capital in terms of unit prices and price rises. At the end of same year of 2017 average price for per square meter was TRY 2,627. Over the last 5 years unit prices have risen by % 104 (Turkish Central Bank, 2018).

At the end of 2017 USD/TRY (Turkish Lira) exchange rate was 3.77 (Turkish Central Bank, n.d.).

Regarding home sales to foreigners, reciprocity rules that prevents most foreigners to purchase housings were abolished in 2012 which means nationals of more than 180 countries are eligible to acquire real property in Turkey. Moreover, in 2017 more than 22 000 homes were sold to foreigners with a yearly increase of 22% despite the safety issues and foreign policy instability (Turkish Statistical Institute, 2018). Furthermore, Vat exemption (%18) is to be granted to foreigners paying in their currencies.

2.1.B. Forecast of Real Property Market

With respect to future of Turkish real property market several concerns were noted. Apart from the lowered figures of home sales as country's economic struggle continues,

according to another study purchasing power of real property reduced by %3.48 (GYODer, 2018).

Given the possibility of forecasted surplus supply issue for big cities like Istanbul and Ankara and market players' heavy burden of foreign currency debts as well as cost increases of %17 detected by the Turkstats for March 2018 (Turkish Statistical Institute, 2018) compared to same month of the previous year, a decrease on the growth of the industry is speculated. Furthermore, Turkish Central Bank stated %0.6 of decrease on real values of immovables (Özdemir, 2018).

2.1.C. Devaluation of Turkish Currency

Turkey's economic conditions and parameters has changed during the year of 2018 since the country has been facing a major currency depreciation issue. Turkey's currency , lira , devalued significantly, when it was at all times low level , depreciation rate was over %50 (BBC, 2018). Economic and political implications such as worsening relationship with US and investor concerns with regards to real property market as well as the independency issues of the Turkish Central Bank noted as the reasons of the said currency crisis (BBC, 2018). Turkish administration issued several regulation changes in order to support real property market and provide incentives for foreign investors.

Authorities reduced the figures of investment requirements for acquiring the Turkish citizenship. naturalization criteria regarding real property investment reduced to USD 250,000 from USD 1,000,000 along with fixed investment criteria which was lowered to USD 500,000 from USD 2,000,000 . Said currency crisis makes the Turkish market even more affordable for the foreign investors, as lira depreciated real property sales to foreigners increased.

according to Turkstats, compare to same months of the last year home sales to foreigners increased by %129 and %151 for August and September. However overall numbers of home sales dropped by %12.5 and %9.2 (Anadolu Ajansı, 2018; Anadolu Ajansı, 2018).

2.2. Restrictions to Foreigners

Real property sales to foreigners regulated under Turkish Land Registry Code and it brings a few restrictions with regards to foreign real persons. Apart from the restrictions prescribed by the said code, foreign real persons are eligible to acquire immovables irrelevant to its type such as farming fields, housing units or lands.

However, 35th article of the said code also brings a few restrictions and they are as follows

1. A foreign real person may not acquire more than 30 hectares of real property
2. Total surface area of the real property acquired by the foreign real persons may not exceed the % 10 of the total area of the district of transactions.
3. In order to comply with the regulations covering military forbidden and security zones, location of the real property must be confirmed and approved by the entitled Commanderships
4. in case of acquiring a real property that has no construction on it such as land or a field , foreign owner must propose a project to authorized ministry in 2 years.

Commercial Property Acquisition is also regulated under the same code, Turkish Land Registry Code brings some restrictions. According to 35th and 36th articles of the said code foreign companies incorporated abroad cannot acquire real property unless they have been granted a right to do so under special codes such as tourism incentive code. However foreign capital companies (established and incorporated in Turkey) are allowed to acquire real

property therefore mentioned foreign capital companies are not subject to restrictions set out against foreign companies. Another restriction with regards to real property acquisition for foreign capital companies is military forbidden zones, military security zones and special security zones applications. Acquiring real properties that are in said zones are subject to permissions from relevant authorities such as Turkish General Staff, entitled commanderships or governorships. Foreign companies incorporated abroad as mentioned above may acquire real property only if a right is regulated and granted under a special code, with regards to this, in case of acquiring an immovable that does not have any construction on it, said companies are obliged to propose a project to relevant ministry in 2 years.

2.2.A.a. Secularism in Turkey

Secularism stands for separation of state and religion in Turkey which means state affairs and conducts are not based on any religion including the Islam that vast majority practice. Principle was established by the founding elite early beginning of Turkish Republic and the practice of it might be seen as having some contradictions since Turkey has a state institution (Presidency of Religious Affairs) governing religious matters (Daver, 1988, s. 298). Duties of said institutions are enlightening the nation about the religion, administering worshipping places and religious officials moreover constitutional court once ruled that providing the needs of majority's religion including education, worshipping etc. is not against the constitution and the said principle. Arguments and disagreements related to this principle of secularism mostly focus on the said institution, religion classes taught in schools. However, Turkey follows civil law legal system therefore it has many similarities with the countries

following the same legal system and its laws are not based on any religious legal system including the Sharia¹.

2.3. Taxation of Immovable Sales

2.3.A. Introduction

Real estate sector in Turkey due to its outstanding performance between 2010 and 2018 as it is reported through house price indexes has become one of the fundamental sectors of the Turkish economy and therefore attracted government's and nation's supports and interest (CEIC, n.d.). For the said reason it became one of the reliable indications regarding the health and status of the Turkish economy. It could be said that real estate sector performs well as Turkish economy keeps growing.

Reasons of growing interest towards this sector could be many including the young and growing nation contrary to most developed countries, big government so called megaprojects such as Canal Istanbul, a canal connecting Black Sea and Marmara Sea , third bridge to Bosphorus connecting Asian and European parts of Istanbul, a new mega airport to Istanbul, nuclear power plants etc. and fine infrastructure and expertise the government and private sector have.

Interest towards Turkish real estate sector not only generated by the locals, it has attracted foreign investments and foreigners as well due to its fine price indexes and high yields and return of investments reaching more than yearly 10% of price changes and around 5% of increments quarterly as it was illustrated by the said price indexes (Home Price Trends, 2017). Said foreign attraction has grown due to amendments of the related law in order for foreigners to be allowed to purchase real property in Turkey.

¹ Sharia is the Islamic legal system which is sourced to holy book of Quran and hadith which is collection of sayings of prophet Muhammed (Devlet Kitapları Müdürlüğü, n.d., s. 340)

Indeed, the Turkish authority abolish the reciprocity rule application of the Deed Code that is bringing wide range of limitations for most of the foreigners to acquire real property in Turkey in 2012.

For this reason conducted commercial and regular transactions has increased due to both foreign and local buyers and it has become of great importance to clarify the legal, specifically tax law consequences along with the tax system regulating the said sector that shows growing and increasing commercial figure due to its wide range of clientele, moreover, one of the purpose of this study is to provide a better understanding and a clear picture of the tax consequences of immovable sales in Turkey with comparison to Taiwan as an example for both local and foreign interested parties.

Firstly, terms of disposition or alienation of immovable property and sales of immovable property are two separate legal terms in Turkish legal system and might create different or additional tax applications depending on the circumstances. Immovable property sales compare to disposition, it does have a narrower meaning that is going to be mentioned below. Tax liabilities arising from immovable sales differs by their name and applications depending on the tax codes and type of tax liability taxpayers have. Turkish Income Tax Code numbered 193 that regulates the individual income taxation and Corporate Income Tax Code numbered 5520 both have provided regulations covering the immovable property sales. Apart from the said income tax codes, due to transfer of ownership of property, property transfer tax creates another tax liability for the parties of the said transactions. Furthermore, depending on the legal nature and classification of transactions, VAT application may occur.

In Turkish legal system, there is no specific law or code regulating field of capital gain taxation of immovable, said incomes are being taxed and regulated by the individual and corporate income tax codes. Said codes also provide tax free allowance and a special index to determine the updated acquisition value in order for tax payers to reach net profit that is

subject to said capital gain taxation, moreover, said laws prescribe exemptions regarding the designated incomes in case of falling within the scope of prescribed criteria.

Normally taxed liquid funds are not subject to further taxation in Turkish tax system, however, in case of not being able to benefit from the mentioned exemptions, acquired immovables are subject to capital gain tax applications irrespective of the complying all the related tax liabilities from the date of acquisition. However, in the literature it is indicated that capital gains of immovable sales must be shared with the public through complying the related laws of the state due to state's contribution to those value accelerations through urban planning and investments. Indeed, said capital gains are being taxed based on the increment value if it exceeds the said tax-free allowance due to state's said contributions to increase of value (Arslan, 2014, s. 118; Okmen & Hatice Yurtsever, 2010, s. 59; Saraçoğlu, Pürsünlerli Çakar, & Çakır, 2016, s. 84).

Similar reasoning of state contribution and the benefit derived from public services provided by the public authorities is also argued as the fundamental reason of property tax that is being handled by the local authorities (Arslan, 2014, s. 120). In another way to say, the reason of property tax is benefiting from the public services rather than ownership of the property.

Due to detailed sections below, in summary, tax consequences of immovable sales in turkey that may occur is as follow; capital gain taxation of individual and corporate income codes, VAT application depending on the nature of transactions and said property transfer tax.

2.3.B. Concept of Immovable in Turkish Legal System

Immovable as a legal term is not defined by the Turkish Taxation System, however in some circumstances laws elaborate the scope of applications for the immovable types that are subject to those applications as in the example of article 70 of Individual Income Tax Code.

Similar to this Article 80 of the same code prescribes the immovable types that are subject to capital gain taxation. In law numbered 1136 Property Tax Code regulating the annual property tax that is collected by the local authorities also has not provided a definition of immovable even though it regulates the taxation of buildings and lands.

Mentioned laws regarding immovables in tax laws are only applicable and effective on the prescribed circumstances furthermore said laws does not bring any regulation which is conflicted with the Turkish Civil Code's related articles regulating the immovables.

Apart from the said laws, in order to define and determine the legal nature and scope of the immovables, Article 704 of Turkish Civil Code and other related provisions provide applicable laws. Said provision provides the type of immovables as land, related independent and continuous rights and registered independent units of condominium registry. Furthermore, article 718 of the said law states that the extent of ownership of a land includes layers that are under and above of the land with condition of being useful.

Condominiums that are classified as immovables, regulated under the law numbered 634 of Condominium Code and article 3 of the said code defines this special type of ownership as relating to shared ownership of the land and places on the building. Same provision also stipulates that ownership is established as the shared ownership of the land that is based on the value of the independent units is formed.

With respect to registration of immovables, Turkish land registry comes with two major registration system and there are land register and condominium registry. such as apartments or flats in another way to say independent units in an immovable regulated under a different law that is condominium ownership code for this reason these units are being handled under condominium registry. After getting occupancy permit ownership and related

rights are being recorded under this registration system furthermore related title deed also provides the information regarding land share of the independent unit.

As it is cited by the article 704 or Turkish civil code, article 11 of Condominium Code brings a different registration system for condominiums that is being handled with the same principle and regulations of the land register.

2.3.C. Capital Gain

Capital gains and incremental value that stipulates the positive changes over the value of a property have been continuously debated by interest groups and the public over the years since Turkish system once had a special tax regarding the said matter. However, in Turkish taxation system realized capital gains are subject to capital gain taxation. In another way to say, during the holding period of an immovable value increments will not create a tax liability. Related tax liability may occur after the disposition of a property in case of falling within the scope of capital gain taxation.

Government representatives and authorities both have implied their desire to implement a specific capital gain tax or more restrictive capital gain taxation of immovables (Kaya M. , 2016) numerous times due to excessively increased value of some certain parts and this has been supported by the media and public. Capital gain taxation was one of the much-discussed part of the new income tax code draft.

Due to said reasons and popularity of the topic, capital gain issue naturally researched and discussed by the scholars and therefore it could be said that a strong background has been established regarding the said taxation.

As a matter of fact, Turkish tax system had a specific capital gain taxation between the years of 1970 and 1982 for this reason even after the abolishment of the said regulation, it has been a widely debated matter.

In theory, capital gains described as unearned revenues caused by external factors (Kaya F. , 2011, s. 86) without disbursement of capital or providing labor with respect to said immovable. Moreover, by some authors capital gains stated as undeserved and unexpected income (Saraçoğlu, Pürsünlerli Çakar, & Çakır, 2016, s. 84). For this reason, regarding the narrowing the scope of exemptions and bringing more liabilities, authorities are supported by the academia.

With respect to common reasons of value increments and capital gains, industrialization, urban planning (Okmen & Hatice Yurtsever, 2010, s. 62), economic developments (Hacıköylü, 2016, s. 199) and growing cities pointed out. Due to the contribution of the government and state through urban planning and public investments shaping the state's overall economic atmosphere, minority who derived income as capital gains have been seen liable with regards to sharing the income that is caused by the state and its contribution with the state through taxation.

Despite the said popularity of capital gain taxation, a new law that brings substantial changes has not been drafted and passed. As a matter of fact, other than few minor changes such as change of holding period and designated index application for determining the acquisition cost, current system is still in force.

In conclusion, in Turkish tax system there is no specific capital gain tax law, current system of both individual and corporate income taxations regulates and brings liabilities regarding taxation of positive value increments of immovables.

2.4. Tax Consequences of Immovable Sales

In this part of the study tax consequences of immovable sales are to be presented in a more systematic and detailed way. Said consequences and related regulations arising from

different tax codes and regulations rather than a unified tax law and these taxes are individual and corporate income tax codes, vat tax code, property transfer tax from code of fees. Likewise, annual property tax has significant of importance with regards to taxation of immovables and may bring additional liabilities to new owners of the properties after they acquired the property.

With regards to capital gains we have discussed above and its taxation, capital gain taxation is regulated under individual income tax and corporate income tax codes and impose tax liabilities. Similarly, other types of taxes such as property transfer and VAT is regulated under their own codes.

2.4.A. Capital Gain Tax

According to the article 1 of Income Tax Code, real persons are liable to pay income taxes and the income is described as the net value of their total income.

Article 2 of the said code prescribes they type of incomes that are subject to income tax, for this reason in order to taxation of incomes under this code, said incomes must fall within the scope article 2. In other way to say, income must be a type of the listed ones.

As the main focus of this study, incomes derived from immovable sales might fall within the scope 2 different income types that are commercial or other (incidental) incomes depending on the circumstances of a transactions. Said difference brings different further tax applications for this reason determination of income types is of great importance.

Article 37 of the same code describes commercial income as all types of income derived from industrial and commercial activities, moreover, lists construction and sales of immovables specifically as commercial activities.

Contrary to commercial incomes, other incomes as an income type includes two different incomes and these are capital gains and incidental incomes. Said incomes are distinct from commercial incomes since they don't have continuousness as a feature and not being conducted periodically. Most distinctive feature of this income type that differ other incomes from commercial incomes as mentioned above is continuousness and incomes that are derived discontinuously will fall within the scope of other incomes (Turkish Revenue Administration, 2014, s. 7).

As could be understood from the above definitions, continuousness is the biggest distinction of these income types and continuousness's main indication is frequency of the transactions (Turkish Revenue Administration, 2014, s. 7). However, the application of number of transactions as the only criteria could cause increased number of conflicts between the authority and people as well as inadequate evaluations of the circumstances. For this reason, purpose of the sales (transactions) is applied as the second criteria for determination of the income type along with frequency of transactions. Through determination of transaction purpose, a different conclusion could be made based on the circumstances in similar situations due their different purposes such as generating income, incidental transactions, satisfaction of necessities or protection of wealth (Hacıköylü, 2016, s. 201).

Apart from the said criteria, third distinctive criteria is involvement of a commercial organization and in case involvement of such, related income would be deemed as a commercial income that is regulated and described by article 37 of the said individual income tax code.

Involvement of a commercial organization is clarified² by Turkish Council of State which is the highest administrative court of the country. Mentioned decision evaluates involvement of a commercial organization as an organization consisted of labor and capital to

² Council of State Case Number; 2012/4513 Decision number; 2015/81 Date of Ruling;02.02.2015

generate income. For this reason, in case of involvement of such an entity, related incomes would be deemed as commercial. New tax law draft also addresses the term of commercial organization and concludes in a similar way to said decision of Council of State by stating that labor and capital, setting a business place, marketing and promotion, acquiring materials for conducting said operations are indications of a commercial organization. With respect to said criteria, as it is described above, commercial organization or entity does not have to fall within the scope of company and entity types that are prescribed by related law and regulations. In another way to say, detected commercial organization may not have legal status or registered operations. Application of said criteria basically set investigation standards to clarify the legal characteristic of an income.

Consequently, due to mentioned provisions of individual income tax code, incomes generated from immovable sales fall within the scope of either commercial or other income type and in case of an income is not commercial, said income is to be considered as incidental-other income.

According to article 80 of Income Tax Code, regardless of the acquisition type of cited assets of article 70 except the ones acquired for no considerations such as receiving gifts and inheritance, are subject to capital gain taxation in case of disposition in 5 years from the acquisition date.

Disposition is a wider term than sale and next provision of the said code states that sales and transfer of ownership and rights for consideration, bartering without using money, nationalization and being invested as a capital for a company are considered as disposition.

As from understood from the above explanations, acquisitions without considerations such as receiving an immovable as a gift and inheritance of it, are exempted from capital gain tax application.

Another important matter of the said provision is the prescribed duration of ownership or holding period of property which is determined as 5 years. Estimating the holding period is of great importance in terms of capital gain taxations due to being a condition with regards to full exemption of the said taxation. For this reason, it is imperative to emphasize that said exemption is only applicable in case of holding period is longer than prescribed 5 years.

According to article 705 of Turkish Civil Code, ownership is transferred through registration, for this reason, acquisition date is the day of registration of the property. However, in certain situations, same provision states that ownership may be transferred before the registration and these are inheritance, compulsory enforcement, court verdict, occupancy and nationalization along with other stated situations in law. However, registration is still necessary for conducting a transaction regarding the immovable that is acquired by prescribed exceptions

Same provision regulating the capital gain taxation also provides tax free allowance application that is being updated regularly and for the year of 2018, it is determined as 14.800 Turkish liras which is equivalent to 2670 USD.

According to mentioned article 1 of Turkish Income Tax Code, income tax is levied on net value or net profit which is calculated by deducting acquisition costs and expenses along with taxes paid for the transaction from sales value.

Article 81 of the same code, in order to determine the acquisition costs, acquisition value is increased through producer price index which is announced by TurkStat in case the price index difference is more than 10% between the date of acquisition and disposition.

In conclusion, capital gain tax liability occurs in case of meeting following criteria;

- Sales of an immovable that is not acquired for no consideration
- Less than 5 years of holding period

- Exceedance of tax-free allowance

Corporate Income Tax Code regulating the taxations of corporations also provides an exemption regarding the disposition of immovables however, the scope of the said application excludes companies operating in real estate sector through sales or leasing immovables. Article 5 of the said code brings 75% exemption for companies in case holding period is longer than 2 years. Additional criteria of the said provisions is as follows;

- Income within the scope of exemption must be held in a special fund for 5 years
- Collection must be made in 2 years

Moreover, the said exempted income can only be used for investing as a capital.

With regards to capital gains and extreme increments of immovable values, it has been argued that scope of the exemptions must be narrowed or abolished, furthermore, it is stated that capital gains could be seen as an unearned income (Kaya F. , 2011, s. 91; Saraçoğlu, Pürsünlerli Çakar, & Çakır, 2016, s. 84)

Indeed, positive increments on immovable values differs greatly depending on the location and other related features of the immovable for this reason with respect to value changes, there is no homogeneity regarding the value increments. However, apart from the real estate speculations and other possible illegitimate scenarios, this sector should be seen as a line and field of a business, instead of underestimating the sector and related earnings, where thousands of people are being employed. Moreover, it is a commonly followed investment field that has strong relations to demography, politics, type of commerce and economy itself that people base their decisions on said parameters and many more. For this reason, well thought and estimated investments should not be classified as unearned due to well conducted business and investment process beforehand. Furthermore, said sector is of great importance for the economy, in case of bringing more limitations and suggested abolishment of exemptions, sector would harm greatly therefore could lose its attraction.

With respect to capital gain taxation of immovable, Turkish law and tax system does not have impractical regulations that are out of date and not enforceable. Main struggle and problem of the system as explained below is loss of tax due to declared amount application of related taxations. For this reason, instead of limiting the scope of capital gain exemptions, solving said problem of loss of tax through setting efficient and enforceable rules with regards to related taxation of immovable dispositions, would contribute much more to Turkish tax system and economy.

2.4.B. Value Added Tax – VAT

Apart from the income tax, another tax consequence of immovable sales is VAT³. However, the application and liability of VAT is merely depending on the characteristics of incomes. As mentioned above, VAT liability only occurs for commercial transactions and incomes for this reason, in case of an income falls within the scope of capital gain and other incomes that are incidental rather than being continuous and commercial, there won't be any VAT liability.

Indeed, Article 1 of VAT Code, by stating that commercial, industrial, agricultural and professional transactions are subject to VAT application, established VAT liability for those commercial immovable related business and commercial activities including sales and leasing transactions.

³ According to article 29 of Turkish VAT Code, Turkish VAT system operates based on credit mechanism bringing input and output VAT difference. During the business operations from production to sales, with regards to purchasing goods or services VAT taxpayers also pay VAT that is to be input VAT which is shown in invoice and related documents. For this reason, said article of VAT Code brings credit mechanism allowing VAT taxpayers to deduct input VAT from output VAT they collected due to their business supplies and pay the difference/balance to related authorities. In case of input VAT exceeds output VAT, difference could be carried forward to following terms to offset future output VAT.

VAT rates that are applicable to immovable sales are 1% and 18% depending on the size of the immovables. Homes which have net area bigger than 150 square meters are subject to 18% VAT application and 1% is applicable to those homes with net area 150 square meters or less than the designated size of 150 square meters. In theory, it is argued that difference between these two applications is substantial and 18% should be applied only to the exceeding part of a home, rather than the whole price (Sezgin, 2010, s. 208). However, the rate is applied on the whole price in practice in case a home is bigger than the prescribed size.

Additionally, an exemption is provided for corporations by article 17 of VAT Code. According to said provision, Corporations disposing their immovables with more than 2 years of holding period are exempted from VAT liability. However, the companies operating in the real estate sector are excluded from this application.

2.4.C. Property Transfer Tax

According to Code of Fees, immovable sales are subject to property transfer tax that is prescribed as 2% for the buyer and seller separately. Same provision also states that tax base may be determined as property tax value that is designated under the application of property tax. However, same provision also states that property tax value should not be less than real acquisition value.

As described above, related law refers to another tax code and its figure regulated by the article 29 of property tax code in terms of determining the tax base of property transfer tax. However, property tax values, usually lower than real market values. Therefore, parties to avoid related taxation declare property tax values or slightly bigger figure instead of market value.

As a result, through referring the property tax value, tax system allows taxpayers to choose this figure in order to pay less taxes rather than declaring the real figure of transactions and this cause loss of tax for the state. Additionally, with regards to administrative sanctions, 25% tax penalty is prescribed by the same code's article 60 in case of declaring less than real value.

With regards to tax penalty, if related tax authority of taxpayers determines that property transfer tax base is declared less than real amount or property tax value, authority is entitled to issue tax penalty for the parties conducting immovable sales. However, Code of Fees imposes said tax penalty which is regulated under Turkish Tax Procedural Code at a lower rate of 25%. Indeed, article 341 and 344 of Turkish Tax Procedural Code collaboratively state that in case of causing tax loss via prescribed methods such as misdeclaration, tax penalty is to be calculated as the amount of tax loss. However, as mentioned above Code of Fees, a specific code regulating property transfer tax, lowers imposable penalty rate to 25%.

It could be said that, referral of the property tax value and 25% tax penalty rate both stand as reasons of tax avoidance. Since the penalty is applied on the difference rather than the whole figure, it does not have deterrent feature due to its narrow application. Moreover, referral to a relatively lower figure stand as an incentive in the eyes of parties conducting related transactions.

Declared lower figures cause tax loss of capital gain taxation along with income tax, property transfer tax and VAT (Doğrul, 2011, s. 59). According to a study on tax loss of immovable sales between the years of 2008 to the first half of 2010 is estimated as 1.5 billion Turkish liras(equivalent to 949 million USD) (Doğrul, 2011, s. ii). This estimation and above explanations show that Turkish tax system's tax consequences is far from being efficient and has an unhealthy nature.

2.4.D. Property Tax

Property tax as a locally collected tax has significant importance due to its contribution to local authorities (Öner, 2018, s. 301) for many years it has been in force and stands as an important matter with regards to tax consequences of immovable sales.

Said taxation consists of two types of property tax that are land and building taxes that are regulated under different sections of the Property Tax Code.

According to article 1 of the said code, building tax is imposed on buildings that are situated in Turkey. Article 3 stipulates that taxpayer of building tax is the owner of a property or usufructuary for this reason in case of having registered usufructuary tax liability is to be on usufructuary. Rates of building tax are stated as 0.1% and 0.2% respectively for residential buildings and others such as office spaces. However, these rates increased by 100% in case of having the property in big cities⁴. With regards to tax base of the said tax, tax base is the tax value of the property that is determined according to Property Tax Code.

With respect to land tax, said code brings two categories as lot and plot. Plots are mostly used for production on the other hand lots are parceled lands within municipality territories. Distinction is of importance with regards to tax rates (Öner, 2018, s. 308). Land tax is regulated in a similar way to building tax. Article 12 of the same code states that lots and plots that are situated within turkey are subject to property taxation and tax liability as in building tax is on the owner or usufructuary according to article 13. Article 17 stipulates that

⁴ With respect to tax rates of building tax and land tax, article 8 and 18 of Property Tax Code stipulate that prescribed rates increased by 100 percent in metropolitan municipalities. Therefore, administrative classification of the local authority is of great importance with regards to locally collected building and land tax. As informal version big cities are regulated under the Code of Metropolitan Municipalities and prescribed as metropolitan municipalities. Article 4 of the said code states that provincial municipalities with population of more than 750.000 may be declared as metropolitan municipalities. Said structural change according to same article could only be conducted with a new law and indeed in 2012, a new law numbered 6360 stating 14 provincial municipalities as metropolitan municipalities passed through parliament. As of 2019, municipalities of 30 provinces out of 81 classified as metropolitan municipalities(Union of Municipalities of Turkey) <http://www.tbb.gov.tr/en/local-authorities/municipalities-in-turkey/>

tax base of lands are determined according to property tax value which is regulated under said code. On the other hand, tax rate for lots prescribed as 0.3 and for plots it is 0.1%. In a similar way to building tax, rates are increased by 100% for the lands situated within big cities.

Consequently, depending on the type of property, building or land, property tax liability shall occur. Said taxation does not bring both prescribed taxes on one taxpayer due to ownership of a building. In another way to say, building owners are not liable to pay land taxes for the land that their buildings are situated. Furthermore, land tax liability will change into building tax liability in case of constructing a building on a land.

According to article 29 of Property Tax Code, land and building value that is determined as tax base is determined by authorized commissions of related authorities. Moreover, determined values is of great importance for not only property tax but also for property transfer tax due to mentioned referral of Code of Fees regulating property transfer tax.

2.4.D.a. Property Tax Value

Article 1 and 12 of Property Tax Code state that building and lands situated in Turkey are subject to property tax. On the other hand, article 7 and 17 stipulate that tax base of this application is prescribed as the tax value of a land and building which is determined and calculated according to said Property Tax Code.

Article 29 of the same code titled as tax value and states the fundamentals of tax value determination. According to said provision, land tax value is determined by a commission that is established according to the principles prescribed by the Tax Procedural Code. On the other hand, for building tax said tax value is determined as a total figure of construction cost that is determined together by Ministry of Finance and Ministry of Environment and Urbanization and mentioned land tax value with regards to immovables share of land along with the rules

regulating the determination that is provided by a bylaw.. In another way to say, sum of construction costs and land tax value determined by authorities stands as a core of building tax value determination along with the bylaw regulations.

Article 72 of Tax Procedural Code regulates the valuation commission that determines the tax value. Mayor or governor of the area hold the post of presidency of said commissions depending on the subjects of valuation such as lots or plots valuation commissions and local civil servants from different local authorities appointed as members as provided by the said provision. Mentioned bylaw providing rules is also subject of application with regards to valuation of lands.

According to article 16 of said bylaw on Valuation of Property Tax Value states that building tax value is determined as normal transaction value and similar transaction value however said bylaw also states that if similar transaction value is not possible to acquire, normal transaction value will be determined as the sum of construction cost as stated above and 20% of profit share and cost of the land. Designated ministries publish construction cost of properties each year as law states. Moreover, tax value is determined as a figure stating unit rate as per square meter. Determined rates differ greatly depending on the type of building and quality of construction such as luxury and basic ones.

Land Tax Value is also determined as a unit rate stating per square meter figures and fundamental principles of valuation as stated by article 26 and 33, type, classification and usage is of great importance for plots that are mostly used for production such as farming. Tax value determination for plots is prescribed as normal transaction value which is to be the transaction value of similar plot transaction. However, if this information cannot be acquired, agricultural income capacity is to be used as determination parameter, related provision of

article 43 further follows as 5 years of agricultural income from a plot is to be decided as plot tax value.

For lots that are parceled lands within municipality territories, location, transportation, benefits derived from infrastructure services, urban planning such as the type of building that could be constructed are designated as parameters. Further information with regards to valuation of lots has shown similar methods as building tax value determination which is normal transaction value that is to be decided by similar transaction value that is to be declared amounts of similar transactions according to article 31 of the said bylaw. If similar transaction value cannot be acquired, tax value of a building that has determined land tax value and situated in a similar area is to be used as determination parameter.

2.4.E. Proposed Tax Reform

Turkey is planning to pass a new income tax code covering both individual income and corporate income tax codes. Proposed tax reform brings few changes on tax consequences of disposition of real property as well.

2.4.E.a. Corporate Taxation

According to proposed draft, a capital gain exemption is granted for corporate taxpayers and individual taxpayers basing their tax applications to their balance sheet - this rule covers financially well doing taxpayers- in case of meeting prescribed criteria that is the same with the current regulations. However, the exemption rates are different and varies based on the holding period of the immovable. Furthermore, this new application brings individuals basing their tax returns on their balance sheets into the same category as corporate taxpayers are regulated. In another way to say tax reform proposal widen the application of corporate capital gain exemption by bringing some of the individual taxpayers into this category that regulates corporate taxpayers. New rates of this application is as follows;

1. %40 for the gains after 2 years of holding period
2. %50 for the gains after 3 years of holding period
3. %60 for the gains after 4 years of holding period
4. %75 for the gains after 5 years of holding period

Immovables fall into this exemption are lands, continuous and independent rights and independent units registered in condominium registry as prescribed in Turkish Civil Code. Income derived from these sales must be kept in a special fund as in the same way as the current regulations and the condition regarding not doing business in the field of real property also still remains.

| Current Situation | Tax Reform Proposal |
|---|--|
| Corporate taxpayers | Corporate taxpayers and individuals using balance sheet based tax returns |
| 50% exemption for the gains after 2 years of holding period | <ol style="list-style-type: none"> 1. no exemption for under 2 years of holding period 2. %40 at least 2 years of holding period 3. %50 at least 3 years .. 4. %60 at least 4 years .. 5. %75 at least 5 years .. |

Table 1 Differences Between Current Corporate Taxation and Tax Reform Proposal

2.4.E.b. Individuals` Taxation

Tax reform proposal brings a few changes on capital gain taxation of individuals as well. %10 threshold rate of producer price index application that is used for the calculation of expenses in order to determine capital gain is abolished which means no matter how much increase occurs on the said index that will be in the use of taxpayers when it comes to estimate the cost value.

Second change with regards to this matter is exclusion of immovables where taxpayers are domiciled. With this new application taxpayers will not face capital gain tax consequences for the disposition of the property where they stay with a purpose of living and being domiciled.

Third change with respect to this matter is tax reform proposal prescribes varying rates for capital gain taxation of individuals as it prescribes for corporate taxpayers.

1. %40 for the gains after 2 years of holding period
2. %50 for the gains after 3 years of holding period
3. %60 for the gains after 4 years of holding period
4. %75 for the gains after 5 years of holding period

| Current Situation | Tax Reform Proposal |
|---|----------------------------|
| %10 percent threshold for application of producer price index | Threshold is to abolish |

| | |
|---|---|
| No exemption for dwelling place (domicile) | An exemption for disposition of dwelling place is to be granted |
| Prescribes full exemption after 5 years of holding period | <ol style="list-style-type: none"> 1. no exemption for under 2 years of holding period 2. %40 for the gains after 2 years of holding period 3. %50 for the gains after 3 years of holding period 4. %60 for the gains after 4 years of holding period 5. %75 for the gains after 5 years of holding period |

Table 2 Differences Between Current Capital Gain Taxation of Individuals Tax and Tax Reform Proposal

2.4.F. Taxation Jurisdiction

Tax liabilities of taxpayers is based on residency principle which is accepted by the Turkish tax system. Residents and nonresidents are liable to pay taxes for income they generated in turkey. Difference is residents' worldwide income is subject to taxation contrary to nonresident taxpayers.

On the other hand, since countries' tax system may differ greatly, and this may cause double taxation issue for those legal and real people operating internationally. In order to avoid such issues, countries sign tax treaties with each other in which taxation matters in terms of type and jurisdiction are regulated (Demirli & Ayyıldırım, 2016, s. 205).

Turkey has signed 75 treaties as of 2018 (Öner, 2018, s. 228), and said treaties are compatible to OECD model tax convention on income and capital. Said treaties' article 6 and 13 regulate immovable related taxes such as income from immovables and capital gains from immovable.

Indeed, conducted treaties between Turkey - Japan and Turkey - Netherlands are examined for the purpose of this study. Article 6 of the said treaties give right to levy taxes to the country where the property is situated for the income derived from immovable properties. Furthermore, article 13 of said treaties regulate capital gain taxation in a similar way to article 6 and authorize countries where immovables are situated in terms of collecting capital gain taxes.

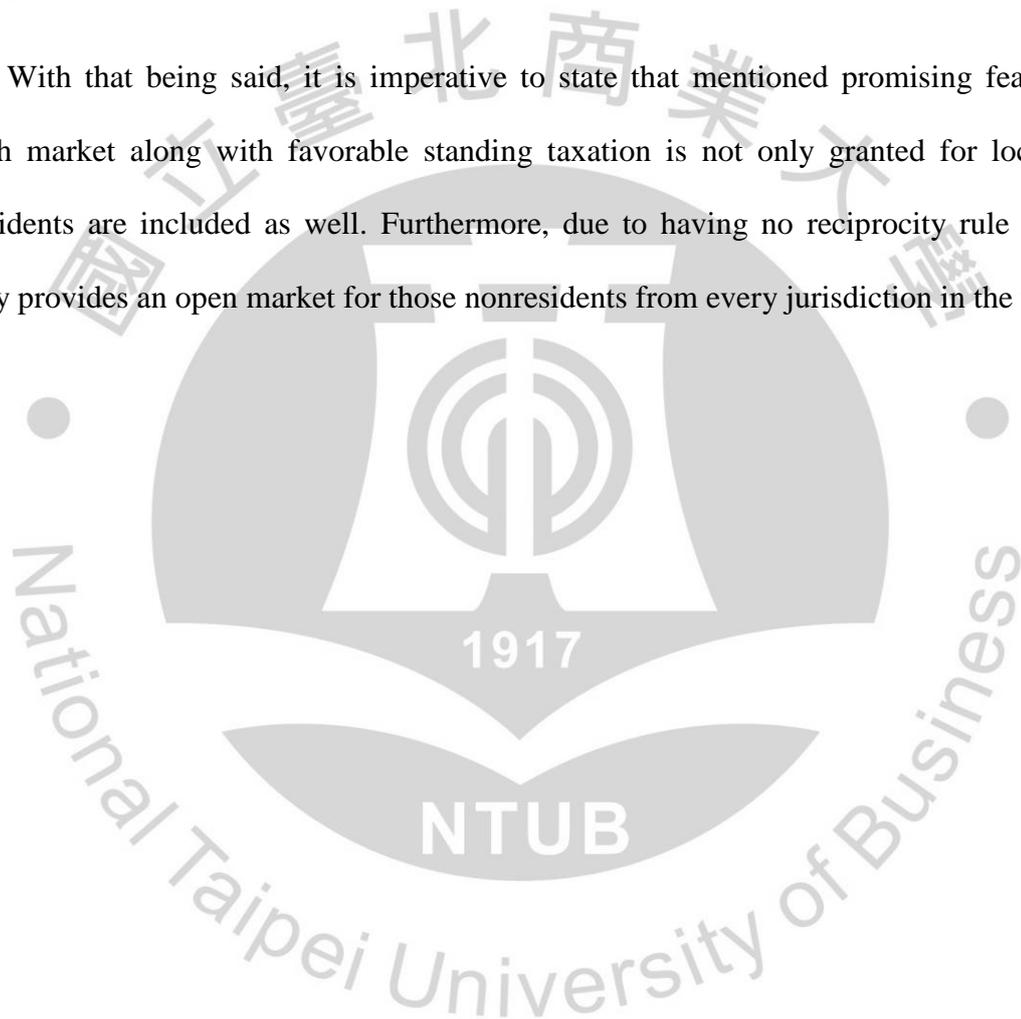
However, in case of there is no tax treaties, taxation will be decided and based on the general rules of Turkish tax system which operates on residency principle. According to said principle as mentioned above, nonresidents are liable to pay taxes for the income they generate in Turkey. For this reason, with respect to income from immovables that are situated in Turkey and likewise immovable sourced capital gains will be deemed as locally generated income which is subject to said tax applications of Turkish tax system.

2.5. Conclusion

As could be understood from above financial figures, Turkey once provided outstanding investment outcomes and latter to ongoing crisis, it is indeed capable of providing the same and even more favorable financial outcomes.

With respect to taxation of immovables due to having low figures under the system of assessed value, almost all transactions and tax consequences of said transactions come with lowered tax liabilities. Further, as tax base of property tax, capital gain tax and property transfer tax lowly assessed value application provide extremely favorable tax environment to those conducting related transactions not to mention various possibilities of full exemption on capital gain taxation.

With that being said, it is imperative to state that mentioned promising features of Turkish market along with favorable standing taxation is not only granted for locals and nonresidents are included as well. Furthermore, due to having no reciprocity rule in force country provides an open market for those nonresidents from every jurisdiction in the world.



Chapter 3. Taiwanese Real Estate Market and Taxation

3.1. Economy

With a similar size of an economy, Taiwan listed as 20th largest economy in the world with a GDP more than 600 billion USD. Furthermore, in terms of GDP per capita Taiwan shows a better picture than Turkey through its 25,004 USD (CEIC, n.d.). Not only the GDP figures but also economic indications of significant importance also provide signs of a healthier economy such as unemployment rate, inflation rate current account balance, external debt etc.

Indeed, Taiwan has much more appreciative inflation rate compare to Turkey since the country currently deals with major inflation rate of 20% along with other economic problems (Trading Economics, n.d.). With regards to current economic balance, unemployment rate and external debt (the World Fact Book, n.d.) same major differences stand similarly in favor of Taiwan.

However, mentioned impressive figures stipulating Taiwan's impressive economic outlook and input, with regards to real estate sector, mixed and contradictory analysis and figures take place of impressive economic features. Indeed, Taiwan's real estate market as explained below projects different outputs depending on the time and other variety of parameters in relation to economic figures.

3.1.A. Home Sales and Prices

As a main indication of real estate market and focus of this study along with being a subject of complicated tax applications, home sales and related figures is of great importance.

It is reported that housing demand along with house price index had shown contraction on the years of 2014 to 2016. However, market seemed to be gaining momentum due to better economic output including the economic growth which is above the average of 2.4% by reaching 2.86% (Liao, 2018) and better following quarterly rates than Taiwan had shown for the previous 6 years between 2011 and 2017. These improvements also affected the real estate market in terms of number of transactions, demand and demand for the entering the market. Indeed, it is reported that issued number of construction licenses for residential purposes has also increased as market demand rises (Delmendo, 2018).

For the same year with better economic growth total number of real estate transactions reported to be more than 266,000. During the following year of 2018, in first quarter in terms of number of transactions and market demand has also increased as it did in 2017. Moreover, indications of improvements have shown in 6 of all major metropolitan areas of Taiwan with varying similar rates (Delmendo, 2018). However, for the last years as in the example of 2014, 2015 and 2016 housing market might project price falls and decreasing demands and very far away from previous booming periods indeed, a contraction in market is reported for the last quarter of 2018 stipulating a decreases on number of listed properties in the market, transactions and naturally commercial activities contrary to vary first quarter of the same year (Hsu & Huang, 2018).

With respect to pricing in real estate market, Taiwan mostly shown increases between the years of 2006 and 2018. Another report with regards to housing prices stated that prices have doubled over the course of 14 years between 2003 and 2017. Moreover, with respect to house price index and housing prices diagrams are showing mostly rises and some exponential rises as a booming market.

For the major metropolitan areas of Taiwan including Taipei, New Taipei, Hsinchu, Taichung, Kaohsiung and Taoyuan between the years of 2001 and 2017 house price index rose between 118% to 224% with varying rates for each area. However, the said increases is not only limited to this timeline same study states an extreme exponential rises in 1995 by stating 200% increase for an average apartment (Delmendo, 2018).

For these mentioned reasons, Taiwanese real estate market has provided great investment opportunities and returns in the recent past. However, said booming feature of the market has created major problems for the locals with average and less income with regards to housing affordability. Indeed, rises on the property prices have outstripped the wage growth. It is reported that during the last 14 years wage growth was limited to 18% on the other hand housing prices has doubled (Yang, Slow wage growth, bad property deals blamed for Taiwan micro-flat trend: report, 2018). For this reason, Said property price rises and booming feature of the market put purchasing real estate beyond Taiwanese people's reach in a country where house ownership is a tradition.

With respect to housing affordability Taiwan is in the state of crisis since country is listed among the least affordable markets in house price to income ratio indexes. Indeed, Taiwan ranked 3rd in relation to house price to income ratios even outstripping the world-famous cities of New York and London in connection to unaffordability. Moreover, it is stated that an average Taiwanese must spend two third of his income to afford a mortgage which is beyond tolerable (Property Prices Index for Country 2019, 2019; Delmendo, 2018).

In order to for overcome the said issue of housing affordability it is reported that small and cost-effective residential units called micro-flats were on the rise. However, efforts to boom number of transactions through providing small apartments with less than 66 square meter net area didn't result well in the first half of the year of 2018. It is reported that only the

12 to 14 % of the properties were sold respectively (Yang, Slow wage growth, bad property deals blamed for Taiwan micro-flat trend: report, 2018).

Contrary to booming aspects of the Taiwanese real property market, with respect to rental yields which is another parameter and reason of an investment Taiwan does not show similar outstanding figures. With the exception of small apartments, Taiwan's rental yield is estimated as less 2% which does not stand as a good investment figure in relation to real properties that are not occupied by the owner. Furthermore, said figure is stated as gross point in which legal costs, tax and other usual expenses are not deducted (Delmendo, 2018). For this reason, it could be said that Taiwan is not the best place for being a landlord if seeking to collect rental income as an investment return.

3.1.B. Forecast

Regarding the future of Taiwanese real estate market, possibility of an oversupply in northern part of the island is projected. Moreover, it is stated that in case of not having the continuance of economic recovery, real estate market may face serious issues due to oversupply of housing (Yang, Oversupply could derail Taiwan housing market: expert, 2018). As mentioned above even the concept of micro flats seemed to be failed in the eyes of Taiwanese customers due to affordability crisis and for foreign investors house prices does not show satisfying increases not to mention low rental yields which is a sign of an overvalued market. For all these reasons mentioned above Taiwanese real estate market may show decreased figures in relation to house price index, house price changes, housing demands.

3.2. Real Property and Restrictions to Foreigners

Article 66 of Taiwanese Civil Code provides a definition of real property by stating that real property is land and its constant affixations. On the other hand, Land Act refers to land with a different scope by stating that land is dry land, bodies of water and natural sources of wealth.

With respect to restrictions for foreigners in terms of purchasing real property, Taiwan's Land Act provides governing provisions by providing the scope of eligibility.

According to article 18 of the Taiwan's Land Act, foreigners may acquire land; however, the same provision also sets a condition with respect to it which is the reciprocity rule. Indeed, said provision looks for the same rights to be provided by the country of a foreigner to Taiwanese nationals. For this reason, in order for foreigners to create and acquire rights over a land that is located within the territory of Taiwan, as set by the article, there must be a diplomatic relationship with that country and Taiwan along with the same rights that are provided to Taiwanese nationals within the jurisdiction of that country that a foreigner holds citizenship of.

Same Act's article 17 on the other hand prescribes other related restrictions with respect to the type of real properties a foreign national may acquire. Moreover, said restrictions are listed as forest lands, fisheries, hunting grounds, salt fields, lands with mineral deposits, sources of water and land within military territories. Foreign nationals are prohibited to acquire listed properties; however, an exception with a time frame is provided by the same article which allows foreigners to acquire said properties through inheritance; however, they are also obliged to dispose of those assets within 3 years.

Another article regulating foreigners' rights to acquire real property is article 19 of the said act, and said provision provides restrictions with regards to the usage of real property through stating the available type of properties to those foreign nationals, and these are listed as:

residences, business places-office buildings-factories, churches, hospitals, schools, diplomatic and consular buildings, with condition of obtained approval for investments that are significant of importance to country's economy and construction.

On the other hand, same act also provides another article regarding the restrictions that has focus of national policy. Indeed, article 16 of the said act states that national government may prohibit a real property transfer if the said transaction is considered incompatible with the national policy.

As of November 2018, nationals of 39 countries (How do foreigners get land rights, n.d.) eligible to create rights over real estate within the territory of Taiwan since reciprocity criteria is satisfied that is set by the said act. However, with regards to Chinese nationals of PRC, a distinguished circumstance is set by Taiwanese legal system which is a mandatory permission system in terms of real estate acquisition.

Taiwan's *Act Governing Relations between the People of the Taiwan Area and the Mainland Area*, another regulation, also provides a rule regarding real estate transactions of nationals of People's Republic of China that brings mandatory permission procedure for those nationals with respect to creating real property rights within in the territory of Taiwan.

3.3. Taxation of Immovable Sales

3.3.A. House Tax

Locally collected house (building) tax is an annual property tax which is applied to buildings with a tax base of government assessed value and with rates varying from 1.2 to 5% depending on the usage of property and regulated under House Tax Act (Housing Tax, 2017).

According to the article 2 of the said act, house refers to structures on a land that is used for work business or residential purposes. Liability of the said tax is on other owner of

the related property, however in case of an appointed dien (usufructuary), dien right holder is liable to pay taxes, article 4 states. Moreover, article 5 prescribes mentioned rates by emphasizing that house tax is based on the current value which is the assessed value that is determined by local tax authorities through taking assessments of the real estate assessment committee into account according to article 9 and 10.

Determination of the said standard assessment value is being conducted through considering various factors such as business and traffic conditions, building types and conditions and market features etc. article 11 states.

In order to levy justified tax rates to those high-end luxury premises Taipei city government is levying luxury housing tax through distinguishing luxury units from general places that were assessed at the same value before implementation of luxury house tax. In another way to say assessed values of those luxury houses are increased in order to increase tax burden. With respect to classification of those premises and units to be considered as luxury ones, a price criterion is set as 80 million New Taiwanese dollars (Luxury housing, 2018).

3.3.B. Land Tax

According to article 40 of the Land Tax Act, land tax is the annual property tax that is applied to lands and in a similar way to building tax, government assessed value is also set as a determinant with respect to application of this tax, moreover, tax rates ranging from 1 to 5.5%.

Regarding the government assessed values, Taiwan use different values in terms of application of related taxations such as land tax, capital gains from land transactions.

According to land bureau of the country, with respect to assessed land values there are 2 different assessed values. Land tax, as an annual property tax and Land Value Incremental Tax as capital gain tax are being based on the different values in terms of levying said taxations. Said distinguished values and market value is interrelated to each with respect to designated rates. Indeed, in terms of levying capital gain taxation assessed value is 96.17% of the market value which is shown on the contract that could be defined as contract value or transaction consideration as well. On the other hand, said LVIT value is 3.66 times of the assessed Land Tax value with respect to locally collected property tax (Assessed Value Adjustments, 2018).

To sum up, government assessed Land Tax value and LVIT value are different values and LVIT value is 3.66 times of assessed Land tax value which is quite close to contract consideration by the rate of 96.17% of it.

3.3.C. Stamp and Deed Tax

With regards to acquisition of real property, stamp and deed tax liability occurs. Stamp tax is applied to sales and transfers of land or real estates with a rate of 0.1% that is based on the contract value of the transaction (Taipei City Government, 2018, s. 135).

On the other hand, deed tax is a typical property transfer tax rather than a legal cost or fee such as stamp tax and its application varies depending on the type of a transaction. Deed tax rates range from 2 to 6 percent and it is applied as 6% on purchasing immovables (Taipei City Government, 2018, s. 133).

3.3.D. Value Added Tax

Taiwanese tax system has VAT with a standard rate of 5% along with differentiating rates for those explicitly stated in Business Tax Act. With respect to determination and

calculation of the tax payable, Taiwan applies input and output system. As stated by article 15 of the said code, tax payable is difference between output and input VAT. Moreover, same provision defines input Vat as paid business tax by a business entity during the course of their business operation which is to sale of good or providing services. In another way to say, paid Vat will be deducted from collected output Vat to calculate and compute said tax payable.

Immovable transactions could be subject to Taiwanese business tax VAT if it meets the criteria of liability. Said business tax is applied on sale of goods and services within the territory of Taiwan according to article 1 of the Business Tax Act. Exemptions with regards to business tax liabilities is provided by the article 8 of the same code and with respect to immovable sales, land sales are exempted from business tax liabilities. However, possibility of the said liability still remains in terms of building and house sales. Since the taxpayers of this tax is stated as business entities respectively by the article of the said code, in order to occur VAT liability, seller of immovable shall be a VAT taxpayer and, in that case, buyer will bear the burden of VAT. On the other hand, regular transactions between parties who are not hold the status of VAT taxpayer will not be subject to this tax application.

3.3.E. Capital Gain Tax

Taiwan's capital gain taxation is regulated under two different taxations which are income taxation and land value increment taxation. Real property tax regime reform which took effect on 1 Jan 2016 has kept 2 -way-system of said taxation.

3.3.E.a. Corporate taxation

With regards to taxation of income and losses from real property transactions, a new real property tax regime that has been in force since 2016, and according to this new regime

all properties acquired on or after 1 Jan 2016 and properties acquired in previous 2 years and held no more than 2 years fall within the scope of new real property tax regime.

According to tax regime, corporate tax rate of 20% is applied to capital gains generated from real property transactions as well. However, for non-resident corporations tax rate of the said tax differs by providing 35 and 45% depending on the holding period of a property. According to the said regime, 1 year of holding period is set as determinant for this reason, if the property is held less than 1 years 45% will be applied and in case of holding period is longer than 1-year tax rate is designated as 35%.

On the other hand, capital gain taxes are applied to net profits which is to be found by deducting related costs and expenses along with land value increment tax base to avoid double taxation since the land value increment tax still remains unchanged (pwc pocket tax book).

Old property regime still in for those properties acquired prior to designated of 1 Jan 2016 in which only the capital gains derived from buildings taxed under corporate income taxation and land value increment tax is applied to capital gains from land transactions.

3.3.E.b. Personal Taxation

With respect to capital gains from real property transactions that is realized by individuals, Taiwan has a separate filing system which means tax return must be filed within a designated period rather than a combined filing with income tax.

As mentioned above, personal income taxation of capital gains also falls within the scope new real property tax regime and designated times prescribed as the same. Therefore, properties transacted on or after 1 Jan 2016 which is the date new law became effective will

be subject to new property tax regime along with properties acquired previous 2 years of the date and held less than 2 years (Taiwan Pocket Tax Book 2019, s. 53).

In a similar way to corporate taxation of capital gains from real property transactions, tax base is to be found by deducting related costs and expenses along with the tax base of land value increment tax since the said taxation is still in force.

With regard to tax rates, tax system prescribes progressive rates depending on the holding period and determinants is prescribed as 1,2 and 10 years as holding period and rates is as follows; 15, 20, 35 and 45%.

| Holding period | Tax Rate |
|-------------------------------|-----------------|
| Less than 1-year | 45% |
| More than 1 less than 2-year | 35% |
| More than 2 less than 10-year | 20% |
| More than 10 years | 15% |

Table 3 Taiwanese Capital Gain Tax Rates

Besides this rates and taxation an exemption is provided with following conditions contrary to general application of capital gain tax under the article 4-5 of Income Tax Act. According to said article, self-used house occupied by the owner, his spouse or minor children with condition to never had conducted transactions of lease or business purposes for 6 consecutive years and not benefitted from this provision within last 6 years are allowed to an exemption of 4,000,000 NTD. Moreover, if the gain exceeds 4,000,000 NTD exceeded part will be taxed at 10% flat rate. As mentioned above this right of exemption is provided for taxpayers once in every 6 years in case they meet prescribed criteria.

As for the corporate taxation of capital gains, personal capital gain taxation also brings different rates to non-residents. According to article 14-4 of Income Tax Act, non-residents are taxed with rates of 35 and 45% depending on the holding period of the property. Determinant similarly set as 1-year same as corporate taxation, therefore, non-residents who hold properties less than 1-year will be subject to 45% corporate gain tax and non-residents with holding period more than 1 year will be subject to capital gain tax at 35% rate.

3.3.F. Land Value Increment Tax

Land value increment tax is a capital gain tax for capital gains from land transactions that is regulated under the Land Tax Act.

According to article 28 of the said tax, land value increments are subject to said taxations. Moreover article 5 of the said tax put land sales under the scope of land value increment taxation. Government assessed value is of great importance with respect to this capital gain tax since the taxation is based on the positive increments on the said value.

Tax rates are ranging from 20% to 40% depending on the increase of the government assessed value. Article 33 of the said tax states the increase rates on the government assessed value as determinants of the progressive rates that are 100 and 200%.

| Increase on Value | LVIT Rates |
|-------------------------------|-------------------|
| Less than 100% | 20% |
| More than 100% less than 200% | 30% |
| More than 200% | 40% |

Table 4 Land Value Increment Tax

3.4. Conclusion

Within the light of analyzed data, house price changes and indexes mostly shown progresses in favor of the investors including exponential rises. However, the current affordability problem and the possibility of an over valued market brings questions with regards to future of the market in Taiwan.

Assessed value system is applied in Taiwan said lowly assessed values that are lower than the real market value stand as tax base of many transactions such as property taxes and deed tax. However, market value is determined as tax base of capital gain taxation in which nonresidents are being treated with higher rates that is making the market less attractive.

With respect to restrictions and scope of eligibility, due to having reciprocity rule in force only limited number of countries` nationals are eligible to create rights over immovables. Further, restrictions towards the type and usage of the immovables that are available to nonresidents projects relatively a closed market.

Consequently, restrictions and less favorable tax treatments towards nonresidents along with the possibility of an over valued market make the decision to operate in Taiwanese market far harder

Chapter 4. Comparisons of the Findings

4.1. Economy

Economic factors differ greatly in comparison of these two countries. Due to latest developments Turkey has been suffering from a great recession in which unemployment rate, inflation and announced interest rates of central bank is rising despite all the reforms and solutions that is announced by the administration to tackle the economic crisis.

As could be understood from above Taiwan shows healthier economic features. Turkey's economy slightly bigger than Taiwanese economy as it ranked 17th and country is a member of G 20 however with respect to external debt, inflation rate, unemployment rate, current account balance, GDP per capita Taiwan projects much better figures than Turkey.

As a major breakdown of devaluation of currency, central bank struggles to prevent it through raising the interest rates, have provided a great inflation rate and higher interest rates that are significant importance to real estate sector. For this reason, it could be said that Turkish market is showing great contraction and devaluation due to inflation which is stated as 20%.

Turkish central bank stated that house prices increased by more than 9 points (HaberTürk, 2019) however when inflation is considered, after the adjustments it could be seen as house prices is in contraction as in the currency devaluation. Moreover, state statistics agency reported 2.4% decrease on house sales (Turkish Statistical Agency, 2019).

4.1.A. Home sales

With respect to number of transactions, Turkey shows far higher figures than Taiwan since its been showing more than a million sales during the last 5 years reaching over the 1.4

million home sales. On the other hand, Taiwan's home sales, and number of transactions stated as over 260.000 for the year of 2017.

With respect to home prices, both countries have shown major increases during the last years. Indeed, it is reported that between the years of 2012 and 2017 as in the example of Turkey's first and third major cities housing figures have doubled. Same rate of increase is shown by Taiwanese market as well, moreover it is reported that last 14 years till 2017 housing prices doubled in Taiwan as well.

With regards to housing prices Taiwan has shown decreases during the years of 2014 and 2016 when Turkish market showing booming features. However, with in the light of ongoing economic struggle Turkey has been facing construction business in Turkey, facing contraction furthermore, number of transactions and inflation adjusted housing prices have started showing decreasing trends.

4.1.B. Affordability problem

With regards to major differences between two markets, one of the major issue on Taiwanese part is housing affordability as a major problem at least for Taiwanese locals. Indeed, exponential rises over the last 14 years and 1990s have outpaced the wage growth unreasonably for this reason said housing affordability problem has occurred. Taiwan ranked 3rd in terms of house price to income ratio and Taipei ranked 13th least affordable city with regards to property prices.

On the other hand, Turkey seems still be able to offer affordable rates. Moreover, within the same ranking, Turkey hold the post of 70th rank out of 93 countries and its major and most expensive city of Istanbul is ranked 108th providing indications that it is among the affordable markets for the locals and interested outsiders.

4.1.C. Rental Yields

As a major investment aspect and reason to invest, rental yield rates provide solid understanding with respect to affordability as well. As mentioned above, as one of the least affordable markets Taiwan does not offer high rental yield which is estimated as 2% before the taxes and costs. Once as a prosperous market, Turkey had offered much better rates. However, mentioned devaluation and inflation issue, overall economic struggle crashed country's rental yields as well current estimation is limited to 1.93% similar to Taiwan (Rental Yields: Why are they important, n.d.). For this reason, in terms of rental incomes, both markets perform poorly.

4.1.D. Forecast

As an expensive market, Taiwanese real estate market depends on the economic recovery as well. Otherwise it is stipulated as mentioned above that Taiwan could face the issues of over supplied and overvalued market and therefore contraction is seemingly possible.

Arising from the economic crisis turkey faces, country already started feeling detrimental effects towards to real estate market. According to state statistics agency, during the march of 2019, compare the same month of previous year, home sales has shown 5.4% decreases. Due to excessively increasing interest rates, more than 30% decreases occurred on sales with mortgage loans. Moreover, market contraction for January and February with comparison to same months of previous year of 2018, was estimated as 24.8% and 18.2% (Turkish Statistical Agency, 2019) respectively. Due to continuous nature of the economic crisis, and management and administrative failures of the Turkish authorities, said financial issues including inflation, devaluation, high interest rates remain and expected to cripple the

economy even more. For this reason, unless the prompt resolution of economic and management issues is provided, it is expected that real estate market will continue to crash as the economic crisis worsens. However, as my professor once pointed out, due to its young population with median age of 32 and tradition of home ownership similar to Taiwan, Turkey's real estate market is expected to survive this crisis.

Mentioned differences in this section are summarized through the table below.

| | Turkey | Taiwan |
|----------------------|--------------------|---------------------|
| Economy | 17 th | 20 th |
| Market | Crashing | No Contraction |
| Inflation | 20% | 1% |
| Unemployment | 14.70% | 3.73% |
| Home Sales | 1.4 million (2017) | 260.000 (2017) |
| Prices | Doubled in 6 years | Doubled in 14 years |
| Affordability | Affordable | Unaffordable |
| Rental Yields | 2% | 2% |

Table 5 Economical Differences

4.2. Restrictions to Foreigners

According to related mentioned regulations of Taiwan, restrictions are provided by the type of property, its usage along with reciprocity rule with diplomatic relationship, therefore only 39 countries' nationals may acquire and create rights over immovables in Taiwan.

On the other hand, Turkey has abolished reciprocity rule regarding immovable acquisitions and regarding the type of immovables, contrary to Taiwan, foreigners are not limited to buy certain type of properties with only allowed designated uses unless an exemption is provided by the law. In another way to say foreigners may acquire farming fields, housing units or office spaces etc.

With regards to special permission to acquire immovable, Taiwan brings permission requirements toward mainland China nationals, in relation to acquire immovable there is no such application in Turkey to towards any nationals of other countries.

Taiwanese regulations also provide a national policy provision which may prohibit related transactions within the considerations of authorities even though a foreigner may fall within the scope of eligibility. With regards to similar nontransparent rules and regulations, Turkish authorities hold a list of countries whose nationals are eligible to acquire immovable. As said below there is reciprocity rule in force, however the list is not available to public. Therefore, with similar considerations to Taiwan, national policy concerns may prohibit to create rights over immovables.

Turkey does not grant immovable rights to foreign legal persons with limited exceptions such as tourism industry and sector, however, in case of incorporating foreign capital Turkish companies, it is allowed to create rights over immovables. This also means that foreigners who are not allowed to create rights over immovables through incorporating a company they are allowed to do so.

With respect to similarities both countries, regulated prohibitions over military security zones. Mentioned differences and similarities are summarized in the below table.

Table 6 Restrictions to Foreigners

| Turkey | Taiwan |
|---|---|
| No reciprocity rules | Reciprocity rule in force |
| No restriction on the type of immovables | Prohibited types such as farming fields fisheries |
| No restriction on the usage of immovables | Allowed usages are listed |
| No national policy rule | National policy rule |
| Military zones | Military zones |

4.3. Taxation Differences

4.3.A. House Tax

In a similar way, both countries regulated the house tax (building tax) as locally collected annual property tax based on the assessed value of those properties.

Difference between the market value and assessed value is reaching significant numbers according to a study. Without basing the difference to a standard, considerations of the assessment committee and market trends results in varying differences. According to study on this matter that is conducted a certain region within a metropolitan municipalities average rate of difference estimated as 357% which means only a quarter of market value is designated as assessed value which is to be tax base of Turkish building tax (Büyükkaracıgan, 2016, s. 156).

With respect to tax rates, Taiwan levies much higher rate than Turkey that is between 1.2 to 5% on the other hand Turkish rates stand between 0.1 to 0.4% depending on the prescribed criteria. Within the context of a lowly assessed values of properties, building tax does not bring heavy liability in Turkey in comparison to Taiwan since Taiwan levies higher rates and tax base is the market value another way to say transaction consideration which is the figure on the contract.

With respect to differences of both building taxations, Turkish tax system levies higher rates on buildings that are situated within metropolitan municipalities. Said rates are as follows 0.2 to 0.4% instead of prescribed 0.1 and 0.2%.

Said tax with respect to tax taxpayer is regulated in a similar way which is the owner or usufructuary of the property will be liable to bear the burden.

On the other hand, Taipei example differentiates from Turkey in relation to luxury house tax which is to be applied on luxury residential units that are in much higher value than

other properties within the same district in order to provide tax equality through raising burdens of high-end units.

Mentioned differences are summarized through the table below.

| Turkey | Taiwan |
|---------------------|---------------------------|
| Locally collected | Locally collected |
| Assessed Value | Assessed Value |
| On entire immovable | On building |
| 0.1 to 0.4 % | 1.2 to 5% |
| No luxury house tax | Luxury house tax (Taipei) |

Table 7 Building Tax Differences

4.3.B. Land Tax

Both countries have regulated land tax as locally collected property tax in a similar way however there are dissimilarities as well.

In terms of tax liability, taxpayer who will bear the burden of said tax, similarly both tax system prescribed owner or usufructuary of a land as taxpayer.

With respect to tax rates as in the example of building tax, Taiwan levies higher rates than Turkey. Taiwan's land tax rates as mentioned above are between 1 to 5 % that is much higher rates than Turkish tax system prescribes which is between 0.1 to 0.6% respectively. In a similar way to building tax system, Turkish land tax rates applied at 100% increased rates which is the 0.2 and 0.6% for the lands within the territory of metropolitan municipalities. This application stands as a difference to land tax systems of both countries as it is in building taxation as well.

Both countries base land tax on government assessed values however, Taiwanese tax system provide more than one assessed value in terms of land taxation contrary to Turkey which only has one type of assessed value. Indeed, as mentioned above, there are two assessed values in Taiwan, land tax value is used for land tax and LVIT value which is for the

capital gains from land transactions. LVIT value is 3.66 times of the value which is the tax base of land tax.

Most significant difference with respect to property taxation is interrelated application of both taxes which is the system Taiwan uses. Indeed, Taiwanese taxpayers are liable to pay both building and land taxes if they own an immovable which is subject to building tax. On the other hand, Turkish system does not levy land tax if there is a building situated on a land since with respect to building tax assessed value also includes land share. In other way to say, Turkish system brings property tax liability through building tax on an entire immovable instead of applying divided system that Taiwan applies. In that case tax liability only limited to building tax. In consideration to higher rates of property taxes and implementation of both taxes, compare to Turkey, Taiwanese tax system brings much heavier tax liability as in the case of building taxation.

Both land tax systems use division of urban and non-urban land, however, Taiwan also put some of the land tax liability under a different tax called agricultural land tax that is levied on urban and nonurban lands within designated agricultural zones and regulated by the same act.

| Turkey | Taiwan |
|--|----------------------------------|
| Locally collected | Locally collected |
| Assessed Value | Assessed Value |
| 0.1 to 0.6% | 1 to 5% |
| Integrated application with building tax | Separately levied with house tax |
| Owner or the usufructuary | Owner or the usufructuary |

Table 8 Land Tax Differences

4.3.C. Property Transfer Tax

Both tax systems regulate property transfer taxes within their jurisdictions. Deed tax or as the Turkish version deed fee, are typical property transfer taxes that are levied on immovable sales.

In terms of tax rates, with regards to immovable sales, Taiwan levies property transfer tax at a rate of 6% on the value of deed which is the assessed value according to article 13 of Taiwanese Deed Tax Act. On the other hand, Turkish tax system prescribes said tax with a rate of 4%.

Article 4 of Taiwanese Deed Tax Act states that deed tax liability is on the purchaser. On the other hand, according to the tariff provided by the Turkish Code of Fees, property transfer tax is levied on both the seller and purchaser at a rate of 2% which is 4% in total. However, the same code also states that parties may agree to decide otherwise on liability.

Turkish code of fees states that property transfer tax is levied on assessed value which is the common practice as mentioned above even if the transaction consideration higher than the assessed value that causes tax losses.

Table below is summarizing the important points in regard to property transfer tax comparisons.

| Turkey | Taiwan |
|-------------------|----------------|
| 4% | 6% |
| 2% for each party | On the buyer |
| Assessed Value | Assessed Value |

Table 9 Property Transfer Tax Differences

4.3.D. Value Added Tax

Both tax systems regulate and contain business tax under the name of VAT. In a similar way, Vat is applicable to commercial and business activities as set in VAT regulations. For this reason, incidental immovable transactions between non vat taxpayers, do not create VAT liability in both jurisdictions.

On the other hand, if the type of business is conducted in real estate sector by the seller, VAT liability occurs, and buyer will bear the burden of VAT.

With respect to tax rates standard rate of VAT, Taiwanese VAT system prescribes 5%. Turkish systems standard rate is 18% however, VAT covering immovable sales comes with a distinction which is 1% Vat liability in case the sold housing unit's net area is less than 150 square meters.

In a similar way, Taiwanese and Turkish VAT systems both applies the input and output VAT application in which paid VAT by the business is to be deducted from the collected output VAT.

As a major difference with respect to VAT, Taiwanese business tax act exempted land sales from VAT, moreover in relation to land sales, there is no VAT exemption provided by the Turkish system.

Table below is summarizing the important points in regard to VAT comparisons.

| Turkey | Taiwan |
|---|---|
| Business Tax | Business Tax |
| No liability for noncommercial transactions | No liability for noncommercial transactions |
| 1 to 18% | 5% |
| Input and output VAT system | Input and output VAT system |
| No exemptions for land transactions | Exemption for land sales |

Table 10 VAT Differences

4.3.E. Capital Gain Tax

As another tax consequence of immovable sales, capital gain tax is regulated in both jurisdictions, moreover, both tax systems regulated said taxation in their income tax laws rather than having a separate law and taxation.

One of the differences between two systems is on gains from immovables acquired without consideration such as receiving as a gift or inheriting the assets. Indeed, Turkish tax

system has prescribed capital gain exemption for those income derived from immovables that are acquired with no consideration. On the other hand, according to article 14 of the Taiwanese Income Tax Act in which income from house and land transactions is regulated, income from real properties acquired through inheritance or donation is subject to capital gain tax through estimating the value at the time of acquisition which is to be deducted from transaction value.

With respect to exemptions of capital gains of individuals, Turkish tax system brings 5 years of holding period for full exemption of tax liability. However, in Taiwanese system, there is no full exemption and rates are as stated above in which lowest rate is 15% for immovables held more than 10 years. However, said Taiwanese act's article 4 also grants an exemption for those self-used houses by stating that incomes from a self-used house including the usage of spouse and minor children. Said provision brings 4,000,000 NTD exemption and in case the income is more than designated amount, exceeding part will be taxed at a flat rate of 10%.

With regards to non-residents, Taiwanese income tax system prescribes disadvantageous rates with comparison to rates that are applicable to residents as listed above by prescribing only 35 and 45 % rates with designated one year holding period as determinant.

Same section of article 14 of Taiwanese Income Tax Act also provides a preferential treatment for those with less than 2 years of holding period and disposed their immovable due to job transfer or termination of employment by granting 20% flat rate instead of the highest two rates might fall within the scope of said tax return that are 35 or 45%.

Both systems levy the said tax on profit realized from those transactions which is to be found by deducting related costs and expenses rather than on gross revenues shown on transactions.

With respect to corporate taxation of capital gains, in a similar way, two tax regimes levy their standard tax rates on capital gains, and these are 22% in Turkey and 20% in Taiwan respectively. However, it is worth to note that, standard rate of corporate income tax of Turkey is set as 20% by the article 32 of Turkish Corporate Income Tax Code, however, with an amendment said rate is to be applied 22 for the years of 2018, 2019 and 2020.

In a different way, Turkish tax system provides an exemption for corporate taxpayers with respect to capital gains from immovable transactions through granting 75% exemption with following conditions; at least 2 years of holding period, not operating business in real estate sector and exempted income can only be put into company as capital.

As the biggest difference Taiwanese 2-way capital gain taxation from immovable transactions differs greatly from Turkish regime. Indeed, Taiwanese tax regime separately regulated gains from building and land sales.

Consequently, under the name of land value increment tax, capital gains from land transactions is regulated and stood as a different taxation with different rates as stated above. However, the value increase which is the base of land value increment tax is deducted from capital gain base in order to avoid double taxation in corporate and individual capital gain taxations.

| Turkey | Taiwan |
|---|-------------------------------|
| No separate law | No separate law |
| Exemption for inheritance and gift | No exemption |
| Full exemption after 5 years | No full exemption |
| No exemption for self-used units | Self-used unit exemption |
| Same rates for nonresidents | Higher rates for nonresidents |
| Same system for building and land sourced | Divided system |

| | |
|---|--|
| capital gains | Land capital gain regulated separately (LVIT) |
| 75% exemption for corporate taxpayers after 2 years | No exemption (LVIT remains for corporate taxation as well) |

Table 11 Capital Gain Differences

Chapter 5. Conclusion

This practice-based thesis aimed to identify tax consequences of immovable sales in both countries Taiwan and Turkey along with projecting essentials and differentiating natures of both real estate markets that are quite far from each other.

With respect to market size, Turkey projects far bigger market and higher intensity of transactions due to country's affordable market, favorable tax applications, demographics and tradition of home ownership. On the other hand, with regards to affordability, Taiwan as one of the least affordable markets differentiates from Turkey contrary to having the same tradition of home ownership. Further, given the effects of ongoing economic crisis and crashing real estate sector, in terms of investment and affordability, ironically Turkey seems to be projecting unaffordable outcomes in an affordable market.

In relation to creating rights over immovables by foreigners, Turkey differs from Taiwan as a more open market since there is no reciprocity rule in force that is limiting the scope eligibility regarding foreign nationals willing to create rights over immovable in Taiwan by granting said eligibility to only 39 country's nationals. Furthermore, having a national policy provision that may prohibit eligible ones to create rights over immovables and naturally provide even more restrictive scope of eligibility may limit the foreign attraction towards the real estate market in case of enforcement of said provision of Taiwanese Land Act.

Similarly, regulated house and land taxes as locally collected property taxes differ from each other since Taiwan adopts divided application of both taxes rather than applying

the building tax on an entire immovable for the land and building. Indeed, said property taxes applied separately even though a building is situated on a land in Taiwan. Further, with respect to tax rates, Taiwanese system prescribes higher rates.

In terms of tax loss, in Turkish market most transactions are based on the assessed values that are far lower than the market values however, in Taiwan both deed and business tax are applied on the market value preventing the said tax loss that Turkey suffers. Moreover, Taiwanese tax system prescribes higher rates for the said taxes as in the example of property taxes.

As a main concern regarding immovable dispositions, both countries prescribe capital gain taxation. However, Turkey seems to offer more favorable taxation since it provides full exemption after 5 years of holding period along with full exemption on acquisitions with no considerations such as receiving a gift and inheritance. With regards to tax loss arising from capital gains, assessed value based taxation once again stand as a major reason of tax loss for Turkey. On the other hand, as in the example of deed tax, market value which is the consideration of transactions is applied on capital gain taxation in Taiwan. Moreover, Taiwanese tax system provides different and higher rates for foreigners that is making the market less favorable.

As a distinguished taxation, taxation of capital gains from land transactions is separately regulated in Taiwan. However, said tax base is deducted from capital gain tax bases of individuals and corporations in order to avoid double taxation.

With regards to capital gains, despite its popularity, in Turkish literature a baseless understanding describing capital gains as unearned incomes seems to be established. Indeed, urban planning and state policies make great contributions to value increases of properties however describing these incomes that are mostly caused by planned and wisely estimated

business decisions as unearned income is far from reason. Rather than underestimating a sector and its outcomes and proposing narrower, more restrictive taxation with higher rates that may cause serious problems to an already crashing market, Turkish taxation of immovables with an exemption to property taxes that are house and building tax, must be based into market value instead of lowly assessed values in order to prevent tax loss and provide tax equality as in the example of Taiwan.

To sum up, in comparison to taxation and tax liabilities, Turkey offers far more favorable tax treatments. Indeed, full exemption opportunities for personal taxation and VAT and capital gain exemption for corporate taxpayers not to mention lowly assessed value tax base determination system provides a favorable system for residents and nonresidents. Further, Equal treatment of nonresidents combined with an open market in which there is no reciprocity rule in force seems to be as additional incitements towards the Turkish real estate market. However, the current economic problems that country faces, naturally resulting in detrimental effects that are cases in regard to real estate markets as well. For this reason, in short term making financial decisions has become harder even though the favorable and investor friendly environment still remains.

With respect to Taiwanese system, market seems to be more stable than Turkish one, however, low rental yields and market value based capital gain taxation along with higher and less favorable tax treatments of non-residents stand as reasons to not involve in the market. Further, restrictions towards the type and usage kinds of immovables are making the market even less attractive through limiting the possibilities and options. However, in case of falling the scope eligibility in regard to creating rights over immovables, as its history shows Taiwanese real estate market once again may project and provide results that are beyond satisfactory.

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Appendix

Internship Journal and Weekly Report

實習單位: Eternity Law Firm

Below journal which is also a part of my internship report was recorded during the internship I have conducted at Eternity Law Firm of Taipei focusing on domestic and international tax, business, contract law etc. Given the focus of my practice-based thesis, taxation and tax law related part of the journal and report is shared below.

| 日期 | 本日實習重點(條列式工作內容) |
|-------------|---|
| 2018年08月6日 | <ul style="list-style-type: none">• Research on Taiwan`s individual income• Taxation and residency matter |
| 2018年08月7日 | <ul style="list-style-type: none">• Capital gains, prescribed exemptions and deductions |
| 2018年08月8日 | <ul style="list-style-type: none">• Alternative minimum tax and issuing a paper• Covering individual income taxation |
| 2018年08月9日 | <ul style="list-style-type: none">• Corporate tax system, tax treaties and double taxation |
| 2018年08月10日 | <ul style="list-style-type: none">• Withholding taxes• Tax incentives, Alternative minimum tax |
| 2018年08月13日 | <ul style="list-style-type: none">• Filing requirements and issuing a paper covering corporate taxations |
| 2018年08月14日 | <ul style="list-style-type: none">• Study on how to do business in Taiwan• Contributing a comprehensive guideline prepared by the firm |
| 2018年08月15日 | <ul style="list-style-type: none">• A study on taxpayer protection law• Issuing a paper covering the said law |

貿易實務法律暨談判碩士學位學程

-實習週報-

| | | | |
|----|---------------|------|-------------------------|
| 姓名 | Talha AYTEKIN | 實習單位 | Eternity Law Firm |
| 學號 | 10668013 | 期間 | 2018年08月06日至2018年08月15日 |

■ 本週實習重點:

Getting familiar with and acquiring a better understanding with respect to taxation and tax law, in order to do so I have focused on Taiwan`s

Taxation system specific to individual, corporate taxation along with contributing a comprehensive business guideline which is a work requiring comprehensive study on international and domestic business law

Another matter that I have studied was the environment of taxpayer protection and its law.

■ 心得與檢討:

Since the Firm does not only hold a practice on domestic and traditional part of the legal practice, through studies I have conducted I have gained a better and comprehensive understanding with respect to domestic and international aspects of tax law along with international aspects of business law. For a law graduate these are highly valuable gains since my previous experience was not in relation to these matters and fields of the law. Since the firm and Professor hold an expertise on these matters, I believe that I have made valuable progress in this part of my internship.

