

GUIDEBOOK ON RENTAL INCOME FOR NON-RESIDENT TAXPAYERS

**(Citizens of Foreign Countries not Residing
in Turkey and Turkish Citizens Residing Abroad)**



For detailed information

You can call Tax Communication Centre (VIMER)

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GUIDEBOOK ON RENTAL INCOME FOR NON-RESIDENT TAXPAYERS

**(Citizens of Foreign Countries not Residing in Turkey
and Turkish Citizens Residing Abroad)**

2010

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MISSION

Our mission is to collect adequate revenue with the principles of justice, impartiality and efficiency for the purpose of increasing social welfare, to contribute to the simplification of the tax system and the enhancement of compliance and to provide high-quality of taxpayer service.

VISION

Our vision is to be reliable, efficient, transparent and a global model as an administration which enhances and embraces every kind of economic structure and activity.

CORE VALUES

Reliability
Justice
Impartiality
Effectiveness (Fastness, flexibility and efficiency)
Transparency
Responsibility
Solution Oriented
Competency
Continuous Development
Participation



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INTRODUCTION

This guide has been prepared in order to present general information about the properties and rights which are subjects of rental income, the calculation of rental income amount which will be declared, the amount of exception, expenses which shall be deducted from declared rental income, tax withholding in rental payments and the calculation of due tax for the property and rights subject to rental income of non-resident taxpayer's (Citizens of foreign countries who are not settled in Turkey and Turkish citizens who are settled abroad) renting their property and rights in 2009.

The guide also includes explanation with samples regarding the determination of the amount that should be declared and in which conditions the non-resident taxpayers shall declare their rental income.

1. LEGAL BASIS OF THE TAXATION OF RENTAL INCOME OBTAINED BY NON-RESIDENT TAXPAYERS IN TURKEY

Individuals who do not settle in Turkey are defined as non-resident taxpayers and they are only subject to taxation on their income obtained in Turkey.

In this context, non-resident taxpayer means person who does not reside in Turkey or who spends less than a continuous period of six months in Turkey during a calendar year.



Turkish citizens residing abroad because of the works of directorates, administrations, institutions and enterprises which are bounded to state offices and administrations or to institutions or enterprises having their administrative center in Turkey are not taken into account as non-resident taxpayers but as resident taxpayers. These persons should read "Guidebook for Annual Income Tax Declaration for Persons Obtaining Rental Income".

Existence of the immovable property in Turkey and usage or assessment of property and rights in this condition in Turkey means that income is obtained in Turkey.

2. RENTAL INCOME

The income obtained from leasing of the properties and rights which are stated in Income Tax Law is defined as "immovable property income" and is subject to income tax in certain conditions.

The liable persons of immovable property's income are the owners, tenants (persons having the rights to use actually), possessors, servitudes and usufruct right owners of the property and their tenants in the event of leasing of a rented property and right.

3. PROPERTY AND RIGHTS WHICH ARE SUBJECTS OF RENTAL INCOME

Property and rights which are subjects of rental income are defined in Article 70 of Income Tax Law. They are mentioned as;

- Land, building, mineral water and underground water sources, mines, stone pits, production places of sand and gravel, brick and tile fields, saltworks and their component parts;
- Large fishing net fields and fishponds;
- Component parts of immovable properties leased separately and all their installations, inventory stock and flooring;
- Rights registered as immovable property;



- Searching, operating and franchise rights and their licenses, patent right, trademark, commerce title, any kind of technical drawing, design, model, plan and cinema and television films, audiotapes and videotapes, a secret formula belonging to an experience acquired in industry, commerce and science or rights as right of usage or privilege of usage on a production method;
- Copyrights,
- Ships and shares of ship and all the motorized shipment and unloading vehicles;
- Motorized transfer and draw-frame vehicles, any kind of motorized vehicle, machine and installation and their appurtenance.

Income occurring from leasing of copyrights by authors or their legal inheritors and patentees or their legal inheritors is considered as income from independent business.

If the abovementioned property and rights are included in a commercial or agricultural enterprise, their income is calculated in accordance with the provisions regarding the determination of commercial or agricultural income.

Income derived from leasing of immovable properties and rights which are not included in the enterprise is accepted as immovable property income even they belong to merchants.

Also, income of landlords taking share only from product without actually participating in agricultural activity and shares taken from the income of foundation not as service compensation is considered as immovable property income.

4. OBTAINING OF RENTAL INCOME

Obtaining of rental income is bound to collection principle. In order to tax the rental income in accordance with the collection principle, it should be collected in cash or in kind.

4.1. Collection of Rental Income in Cash

Collection of rental income in cash states that the payment of rent in Turkish Liras or in foreign currency. Received cheques are also taken into account as collection in cash.

- Rental income collected by the taxpayers relating to that year or previous years is taken into account as **the income of the year which it is collected in**.

For example, if 2006, 2007 and 2008 rental income is collected in 2009, this income shall be taken into account as the income of year 2009.

- Rental income relating to prospective years which is collected in advance is not taken into account as the income of the year which it is collected in but as **the income of the years which the income is related to**.

For example, if 2009, 2010 and 2011 rental income is collected in 2009, each year's rental income shall be declared in the related year.

In terms of foreign currency, rental payment and gross revenue is calculated according to the exchange rate announced by The Central Bank of Republic of Turkey on collection date. If there is no current price at the market, it is converted into Turkish Liras (TL) according to the rate determined by Ministry of Finance.



4.2. Collection of Rental Income in-kind

If the rental payment is collected in-kind, payments are valued according to Tax Procedure Law.



4.3. Certification of Collection and Payment Regarding Leasing

With respect to authorization of Ministry of Finance, persons obtaining a rental income of 500 TL or over for each house and persons renting their workplaces and their tenants must certify their collection and payment without a limitation of amount beginning from 01/11/2008 with the documents issued by banks or General Directorate of Post and Telegraph Organization.

Since receipt or monthly statement is issued for the payment and collection while using mediums like depositing money, money order, cheque or credit card by means of banks or General Directorate of Post and Telegraph Organization, these documents shall be accepted as certifying documents. Payment and collection carried out via internet branches of banks are included in the same scope.

The fine which shall be applied to persons who do not comply with the aforesaid obligations is 5% of each transaction's amount and it should be no lower than the amount of special irregularity fine determined for that year in accordance with the repeating Article 355 of Tax Procedure Law.

5. LOW OR NO VALUE FOR RENTAL INCOME

"Equivalent rental value" is taken as bases in case of low or no value for rental income. According to this basis, equivalent rental income principle shall be applied on the conditions of;

- leaving the immovable property to the usage of other persons for free,
- lower value of rental income of rented immovable property than the equivalent rental value.

The equivalent rental value in rented buildings and lands is the rental value determined by authorized specific authorities or courts, if it is available. If there is no renting determination or judgment for the aforementioned building or land, equivalent rental value is 5% of its real estate tax value.

The equivalent rental value in property and rights for other than buildings or lands is 10% of their cost price. If this cost is not known, it is 10% of determined values of them calculated in accordance with valuation of property provisions of Tax Procedure Law.

Example: Mr. (A) rented a flat valued 100.000 Turkish Liras to one of his friends without charge.

Accordingly, although Mr. (A) does not obtain rental income, he should be supposed to obtain rental income in accordance with the amount reached after the calculation of equivalent rental value.

Equivalent rental value: $100.000 \times 5\% = 5.000$ Turkish Liras.

Equivalent rental value principle is not applied under the following conditions:

- Leaving empty immovable properties to other person's residence in order to protect them,
- Allocating the buildings to the residence of the property owner's children, mother and father or siblings (But, if more than one house allocated to the residences of each of these persons, equivalent rental value is not calculated only for one of these houses),
- Accommodating of relatives with the property owner in the same house or flat.

6. EXCEPTION IN RENTAL INCOME

If persons, who gain rental income from house, obtain income less than the amount of exception that is established annually, they are not required to file a tax declaration to tax offices.

If the rental income from house exceeds the amount specified for exception, the amount of exception should be deducted from rental income to be declared in the annual tax declaration.

The exception applies only to rental income from properties that have been rented as house.



For instance if there is a rental income obtained and declared at the same time both from house and workplace, the exception applies only to the rental income obtained from house, not to the rental income from workplace.

Persons who have to declare their income from business, agriculture or professional activities in addition to their rental income are not eligible to benefit from 2.600 TL of exception.

Where more than one person has the ownership of a house, the taxation of the rental income obtained from such house will be subject to 2.600 TL of exception separately for each proprietor.

Where one taxpayer obtains rental income from more than one house, the exception will be applied at one time to the total amount of rental income.

7. EXPENSES TO BE DEDUCTED WHEN DETERMINING THE RENTAL INCOME

In the taxation of rental income, the net amount of the income obtained is determined in two different ways as follows:

- Lump sum expenses method (for other than those who lease rights)
- Actual expenses method

The selection of the lump sum or actual expenses method should cover all immovable property, which means that it is not possible to choose the actual expenses method for some part and the lump sum expenses method for the remaining part.

7.1 Deduction of expenses in the lump sum expenses method

Taxpayers who have opted for the lump sum method (for other than those who lease rights) can, after deducting the amount of exception from their rental income, set off the lump sum expenses at %25 of the remaining amount against actual expenses. It is not possible to opt for lump sum expenses method in the case of leasing rights.

Taxpayers who have chosen the lump sum expenses method cannot choose actual expenses method before two years have elapsed.

7.2 Deduction of expenses in the actual expenses method

If the actual expenses method is chosen, following actual expenses can be deducted from the gross amount of rental income:

- Lighting, heating, water and elevator expenses paid by lessor for rented property,
- Management costs relating to the administration of the rented property and measured according to the importance of property,
- Insurance expenses relating to the rented property and rights,
- Interest of debts relating to the rented property and rights and 5% of acquisition value of a rented house for 5 years beginning from the date of acquisition (This deduction applies only to rental income of the rented house; non-deductible part is not evaluated as expenditure surplus. This deduction is not valid for houses acquired before 2005.),

Deduction of %5 of the acquisition value applies only to one real property rented as house. For real properties rented as workplace, such expense deduction will not be applicable.

- Taxes, fees, charges and special assessments paid for the rented property and rights, as well as charges paid by lessor to municipalities for participation to spending,
- Depreciations,
- Repair and maintenance expenses incurred by lessor for the rented property,
- Rents and other actual expenses paid by sub-lessors,



- Rent of the house accommodated by the lessors who rent their own property, (It is not allowed for taxpayers not residing in Turkey, including Turkish nationals who residing abroad, to deduct the amount of rents they pay in a foreign country from their rental income they obtain in Turkey)
- Cost of damages and compensations paid for rented property and rights based on a contract, act or court decree.

Non-residents who have opted for the actual expenditure method should keep the documents showing the expenses incurred for a period of five years and submit to the tax office when required.

7.2.1. Calculation of deductible expenses in case of exception in actual expenses method

Where a taxpayer chooses the actual expenses method and benefits from the exception applied to rental income from house, the amount of actual expenses corresponding to exception is not deductible from gross revenue.

$$\text{Deductible expenses} = \frac{\text{Total Expenses} \times \text{Taxable Revenue}^*}{\text{Total Revenue}}$$

* Taxable Revenue = Total Revenue – Exception for Rental Income from House

Example: Mrs. B rented her house in 2009 and obtained 12.000 TL of rental income. Mrs. B, who has no any other income, incurred 3.000 TL of expenditure for her property. She chose the actual expenses method.

The amount that Mrs. B can deduct as actual expenses will be the amount that corresponds to the taxable revenue of the total expense for 3.0000 TL.

$$\text{Taxable Revenue} = 12.000 - 2.600 = 9.400 \text{ TL}$$

$$\text{Deductible expense} = (3.000 \times 9.400) / 12.000 = 2.350 \text{ TL}$$

8. IN THE EVENT OF LOSS

Any decrease occurring in the capital itself which is subject to income from immovable property is not considered as loss and is not accepted as expense when determining the gross income amount.

Losses arising from the expenditure surplus in the calculation of the net amount of income from immovable property can be deducted from income to be declared in the following years. There are two exceptions to this rule:

- In the event of any loss resulting from deducting the amount of the rent of the house or lodging paid by the lessor from the rental income of their house, such loss cannot be subject to deduction from the income from immovable property to be obtained in the following years.
- Non deductible part of the amount corresponding to %5 of the acquisition value which has been subject to deduction of income from the immovable rented as house is not considered as an expenditure surplus.





9. TAX WITHHOLDING IN RENTAL PAYMENTS

Persons and entities which are stated in Article 94 of Income Tax Law will withhold income tax on the gross amount of payments made for rent.

Those people and enterprises that are tenants have to withhold income tax from the **gross amount** of their rental payments at the rate of **20%**.

This tax withholding will also be made from the rent paid in advance for the upcoming months and years. For example; when the rent is paid in advance for 2 or 3 years for a workplace, the total rent paid will be subject to tax withholding.

In case that the immovable property leased out is used both as house and workplace; the **total rent** is subject to withholding as long as the place as a whole or a part of it is used as workplace.

10. DECLARATION OF RENTAL INCOME

Non-resident taxpayers do not submit annual declarations in Turkey for the income from immovable property which are subject to withholding tax. In case that they submit annual declaration for other income, they do not include the income subject to withholding tax in their declarations.

Taxpayers who have only rental income from immovable property in Turkey will submit annual tax declaration, if;

- ▶▶▶ their rental income from house exceeds tax exception amount (**2.600TL for the year 2009**); and,
- ▶▶▶ their rental income which are not subject to withholding or tax exception in a calendar year exceeds the limit to submit a declaration (**1.070TL for the year 2009**).

As to the rental income not subject to withholding and exception (Like the rental income derived from workplace leased out to a taxpayer in a simple method), the sum of 1.070TL for submitting declaration is not an exception but a limit to submit declaration. The total income from workplace will be declared in the event of exceeding this amount.

Every member of a family has to submit a declaration on their own behalf for the rental income they obtained from the property and rights belonging to them.

On the occasion that minor and restricted persons are taxpayers; the annual declaration to be submitted on behalf of them is signed by their parents, guardians or curators.

In case of having property and rights with shares, every partner should declare the rental income corresponding to his/her own shares.

11. DEDUCTIONS TO BE MADE FROM INCOME INCLUDED IN THE ANNUAL TAX DECLARATION

Deductions with respect to income to be declared by an annual tax declaration are specified in Income Tax Law and in other relevant laws. In order to make the following deductions from the income to be declared in income tax declaration while income tax base is being determined, there must be an income to be declared in an annual tax return and deductions to be made should satisfy the requirements specified in the relevant legislation.

Accordingly, following items may be subject to deduction:

1. Individual insurance premiums and premiums paid to individual retirement schemes,
2. Education and health care expenses,
3. Donations and aids,
4. Sponsorship expenses,
5. Donations in kind and in cash in relation to natural disasters,
6. Donations and aids made in cash to Turkish Association of Crescent proved with a receipt,
7. Donations, aids and sponsorship expenditures provided to Istanbul 2010 European Capital of Culture Agency,
8. Donations and aids which are completely deductible in accordance with other laws.



12. TIME AND PLACE OF RENTAL INCOME DECLARATION

Taxpayers should submit declarations concerning their income from immovable properties for the period 01.01.2009- 31.12.2009 **from 01.03.2010 to 25.03.2010** until the end of the working hour.

If the due date of submitting declaration coincides with a public holiday, declarations can be submitted the following workday, until the end of the working hour.

If non-resident taxpayers have tax representatives in Turkey, they will submit their declarations to the authorized Tax Office of their tax representatives' location and if they do not have tax representatives in Turkey, they will submit their declarations to the authorized Tax Office of immovable property location.

If the declaration is sent through normal postal service or private postal distribution companies, it will be deemed to have been submitted on the date it arrives at tax office, and if it is sent as registered and reply paid letter, it will be deemed to have been submitted on the date of issue.

Taxpayers whose only income subject to declaration is the income from immovable property will fill out the Annual Income Tax Declaration numbered 1001B.

In the case that there are other income subject to declaration other than the income from immovable property, the rental income obtained will be included in the Annual Income Tax Declaration numbered 1001A, which is used for the declaration of all incomes.

13. NONFILING OR UNDERSTATED FILING DESPITE OBTAINING RENTAL INCOME

- ➡ In the case of non-filing or understated filing of rental income obtained from houses, it will not be possible to benefit from the exception amount of 2.600TL for the year 2009. However, those who submit declarations -before any determination is made by the administration- on their own accord for their rental income

which they did not declare or include in their declarations on time, will benefit from the related exception.

- In the case of non-filing or understated filing during the declaration period by taxpayer of rental income related to former calendar years, it is possible to declare the rental income according to the “**penitence and rectification**” clauses of Tax Procedure Law.
- In the case of informing tax office on their own accord with a petition and submitting the declaration within 15 days from this date, these taxpayers can also benefit from the exception for their rental income from house and they will not be subject to penalty for the loss of tax in accordance with Tax Procedure Law. Only penitence interest is applied for these taxpayers.
- If the rental income is not declared, the taxpayer is subject to **penalty twice as much first degree irregularity** and the income is appraised by assessment committee. The income tax and penalty is calculated on the appraised value. Also **overdue interest** is required for each delayed month.
- The accrued tax, penalty and overdue interest are to be paid **in a month** after the due date of assessment. Otherwise, **late payment charge** is calculated by tax office for each month (late payment of charge for fraction of months is calculated for each day of month) and collected by enforcement.

14. TAX SCHEDULE FOR THE YEAR 2009

Up to the amount of 8.700 TL	% 15
1.305 TL for 8.700 TL of 22.000 TL, over	% 20
3.965 TL for 22.00 TL of 50.000 TL, over	% 27
11.525 TL for 50.000 TL of amount exceeding 50.000 TL, over	% 35



15. TAX PAYMENT

Income tax calculated on the declaration is paid in **two equal installments** in **March** and in July.

The calculated tax can be paid to;

- tax offices that the taxpayer is associated with,
- other tax offices outside the municipal borders of the location of the tax office that the taxpayer is associated with,
- authorized banks' branches.

You can calculate income tax you are supposed to pay by using the system called "Rental Income Declaration Assistance" from our webpage www.gib.gov.tr .

(www.gib.gov.tr → Homepage → Interactive Education → Rental Income Declaration Assistance)

** This service is provided only in Turkish.*

16. RENTAL INCOME FROM IMMOVABLE PROPERTY IN TERMS OF DOUBLE TAXATION AGREEMENTS

Rental income from immovable property is mentioned in article 6, titled "Income from Immovable Property" and article 12, titled "Royalties" of double taxation agreements that Turkey concluded.

Article 6 of the agreements mainly deals with income from leasing of immovable properties and related rights, and provides that the State where the immovable property is situated has the right of taxation. Accordingly, taxation of the rental income from the immovable property situated in Turkey of individuals resident in the other State will be in accordance with the procedure and principles of domestic legislation of Turkey and in these double taxation agreements there is not any provision limiting the domestic legislation.

Turkey has a limited right of taxation from the rental income of non-resident taxpayers obtained by leasing royalties defined in Article 12 of double taxation agreements.

Rate of withholding to be made on the mentioned income may vary from state to state in the agreements. If the rate specified in Article 12 of the agreement and the rate defined in our domestic legislation differs, the calculation should be made according to the lower rate.

17. EXAMPLES RELATED TO RENTAL INCOME DECLARATION

“Mr. A”, living in Germany, leased out his villa in Bodrum and obtained 20.000 EUR as rental income in 2009.

He preferred the lump-sum expenses method and he has no other income to declare in Turkey. On the date of collection, buying rate for Euro announced by The Central Bank of Republic of Turkey is assumed as 2,00 TL.

Income tax for rental income of taxpayer is calculated as follows:

Total Gross Revenue (20.000 EUR x 2,00 TL)	40.000 TL
Amount of exception	2.600 TL
Balance (40.000 – 2.600)	37.400 TL
25% Lump-sum Expenses (37.400 x %25)	9.350 TL
Taxable Income (37.400 – 9.350)	28.050 TL
Amount of income tax calculated (*)	5.598,5 TL
Amount of income tax to be paid	5.598,5 TL

(*) Calculated Income Tax will be found out according to the rates of the tax schedule for the year 2009.



Example 2:

"Mrs. B", living in England, leased out her flat in Marmaris and obtained 20.000 Dollars as rental income in 2009.

She preferred the actual expenses method and she has no other income to declare in Turkey. Her total actual expense for this house is 5.000 Dollars.

On the date of collection and expenditure, buying rate for Dollar announced by The Central Bank of Republic of Turkey is assumed as 1,53 TL.

$$\begin{aligned} \text{Total Revenue} &= 20.000 \text{ Dollars} \times 1,53 \text{ TL} \\ &= 30.600 \text{ TL} \end{aligned}$$

$$\begin{aligned} \text{Total Expenses} &= 5.000 \text{ Dollars} \times 1,53 \text{ TL} \\ &= 7.650 \text{ TL} \end{aligned}$$

(Taxpayers who have chosen the actual expenses method will not deduct the expense corresponding to the amount subject to exception from their income, but only the expense corresponding to the amount subject to taxation.)

$$\text{Deductible expenses} = \frac{\text{Total expenses} \times \text{Taxable Revenue}^*}{\text{Total Revenue}}$$

$$\begin{aligned} (*) \text{ Taxable Revenue} &= \text{Total Revenue} - \text{Amount of exception for rental income from house} \\ &= 30.600 - 2.600 \\ &= 28.000 \text{ TL} \end{aligned}$$

$$\begin{array}{l} \text{Amount of exception corresponding to taxable revenue} \\ \text{(Amount of deductible actual expenses)} \end{array} \left. \vphantom{\begin{array}{l} \text{Amount of exception corresponding to taxable revenue} \\ \text{(Amount of deductible actual expenses)} \end{array}} \right\} \frac{7.650 \text{ TL} \times 28.000 \text{ TL}}{30.600 \text{ TL}} = 7.000 \text{ TL}$$

Income tax for rental income of taxpayer is calculated as follows:

Total Gross Revenue (20.000 x 1,53)	30.600 TL
Amount of exception	2.600 TL
Balance (30.600 – 2.600)	28.000 TL
Amount of deductible actual expenses	7.000 TL
Taxable Income (28.000 – 7.000)	21.000 TL
Amount of income tax calculated (*)	3.765 TL
Amount of income tax to be paid	3.765 TL

(*) Calculated Income Tax will be found out according to the rates of the tax schedule for the year 2009.

18. POINTS TO BE TAKEN INTO ACCOUNT WHEN FILLING OUT ANNUAL INCOME TAX DECLARATION

Tax declaration and the additional sheet to be used if the number of immovable properties is more than five will be filled out as follows:

- Tax declaration will be filled out in one copy,
- Both tax declaration and additional sheet will be filled out in blue or black with capital letters,
- The writing should be eligible and due care should be given not to make deletions or scrapings,
- No marks or signs will be placed between the numbers,
- Numerical expressions will not be written down in roman numerals.
- Alphabetical characters will be aligned left, and numerical characters will be aligned right.

**CONTRACTED BANKS RECEIVING TAX PAYMENTS**

AKBANK T.A.Ş.

ALBARAKA TÜRK KATILIM BANKASI A.Ş.

ALTERNATİFBANK A.Ş.

ANADOLUBANK A.Ş.

ASYA KATILIM BANKASI A.Ş.

CITIBANK A.Ş.

DENİZBANK A.Ş.

EUROBANK TEKFEN A.Ş.

FİNANSBANK A.Ş.

FORTİSBANK A.Ş.

HSBC BANK A.Ş.

ING BANK A.Ş.

KUVEYT TÜRK KATILIM BANKASI A.Ş.

ŞEKERBANK T.A.Ş.

T.C. ZİRAAT BANKASI A.Ş.

TEKSTİLBANK A.Ş.

TURKISHBANK A.Ş.

TURKLAND BANK A.Ş.

TÜRK EKONOMİ BANKASI A.Ş.

TÜRKİYE FİNANS KATILIM BANKASI A.Ş.

TÜRKİYE GARANTİ BANKASI A.Ş.

TÜRKİYE HALK BANKASI A.Ş.

TÜRKİYE İŞ BANKASI A.Ş.

TÜRKİYE VAKIFLAR BANKASI T.A.O.

YAPI KREDİ BANKASI A.Ş.



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