

**GUIDEBOOK FOR
THE RENTAL INCOME
DECLARATION OF
NONRESIDENT
ALIENS IN TURKEY**

2007

FREE OF CHARGE



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- *(0312) 415 32 15 – 415 32 16, dedicated phone for the Directorate of Tax-administration for Agricultural Earnings and Capital Gains from Real Property;*
 - *Tax Information Desks, set up in tax offices to provide tax consulting services during the declaration period;*
 - *And phone line “189” (Alo Maliye) dedicated for Fiscal Affairs Administration.*

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This guidebook is prepared according to legal provisions of law in force.

CONTENTS

Introduction	5
What is the Rental Income?	7
Tax Liability of Nonresident Aliens in Turkey Obtaining Rental Income	7
The Legal Basis of the Taxation of Rental Income Obtained by the Nonresident Aliens in Turkey	7
What is the Acquisition Time of Rental Income?	8
The Conditions for Rental Income Declaration of Nonresident Aliens in Turkey	8
Time and Place of Rental Income Declaration	8
Rental Income Exceptions and Conditions	9
Equivalent Rental Value Principle	9
Inapplicable Circumstances for Equivalent Rental Value	9
Applicable Circumstances for Equivalent Rental Value	10
Calculation of Equivalent Rental Value	10
Payment Time and Place	10
Results of Non-filing or Understated Filing	11
The Deductible Expenses from Rental Income	11
The Deductible Expenses in the Actual Expenditure Basis	12
Allowance for Expenses in Lump-sum Expenditure Basis	13
Exception Applied to Rental Income	13
The Tax Schedule For The Year 2006	13
Examples	14

INTRODUCTION

The Presidency of Revenue Administration has studies about taxpayers who are the non-resident foreigners in Turkey in accordance with taxpayer focused service principle and Turkish Tax Legislation.

The one of the studies is the guide book for the rental income declaration of nonresident aliens in Turkey.

Nonresident aliens can obtain detailed information about the scope of rental income in Turkey, legal basis, acquisition time of rental income, declaration time and location of rental income, exceptions and equivalent rental value and results of non-filing.

We hope that this guide book will be helpful for nonresident aliens about rental income declaration.

THE TAXATION AND DECLARATION OF RENTAL INCOME OBTAINED BY THE NONRESIDENT ALIENS IN TURKEY

What is the Rental Income?

The income obtained from lease of the properties and rights (land, building, rights, etc.) which are stated in the Article 70 of the Income Tax Law are subject to income tax as “Real Property Tax”.

The taxation conditions of rental income obtained from the lease of these property and rights is explained in following articles from 70th Article of Law.

Tax Liability of Nonresident Aliens in Turkey Obtaining Rental Income

Rental income obtained from the lease of property and rights mentioned above as commercial property and house by owner, possessor, owner of the usufruct and easement and leaseholders in Turkey are subject to real property tax.

The rental income obtained from these property and rights is subject to tax and called “Real Property Tax”.

The Legal Basis of the Taxation of Rental Income Obtained by the Nonresident Aliens in Turkey

The nonresident individuals are subject to limited liability only from their income obtained in Turkey.

In this context, a foreigner who spends less than a continuous period of six months in Turkey during a calendar year and whose customary home is not in Turkey is regarded as non-resident taxable person with limited liability.

Income obtained in Turkey means that related immovable property is in Turkey and these property and rights are in use and evaluated in Turkey.

What is the Acquisition Time of Rental Income?

The rental income of the current year or the previous years obtained by taxpayers either in cash or in-kind is regarded as the income gained in current year.

For example; if the rental income of the 2002, 2003 and 2004 is collected in 2005, the income will be regarded as the income of 2005.

The rental income of the forthcoming years received in advance will be regarded as the rental income of each related year and will be declared in related year.

For example; if the rental income of the 2005, 2006 and 2007 is collected in 2005, the rental income of each year will be declared in related year.

In terms of foreign currency rental payments, gross income 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 in to the New Turkish Liras (YTL) according to the rate determined by Ministry of Finance.

In the case of rental payment collected in-kind, payments are converted according to the equivalent value in the Tax Procedure Law.

The Conditions for Rental Income Declaration of Nonresident Aliens in Turkey

The nonresident individuals are subject to limited liability only from their income obtained in Turkey.

In this context, taxpayers who have only rental income from immovable properties in Turkey submit immovable property tax declaration only if that obtained income in a calendar year is above the exception amount.

Time and Place of Rental Income Declaration

The declaration related to the rental income obtained in a calendar year is submitted to the authorized Tax Office of immovable property location until the 15th March of following year.

Rental Income Exceptions and Conditions

The amount stated in Law for rental income obtained from lease as a house in a calendar year is exempted from tax.

The exception amount for 2006 is 2.200 YTL.

This exception is not valid for nonresident aliens in Turkey in the following conditions:

- 1- In the case of non-filing or understated filing by taxpayer despite his rental income over the exceptional amount.
- 2- In the case of annual declaration obligation for earnings from commercial, agricultural and professional activities in Turkey.

Equivalent Rental Value Principle

The amount of rental income from property and rights can not be under the equivalent rental value. In the event of beneficial occupation of property and rights, equivalent rental value is accepted as rental income value.

Equivalent rental value for lands and buildings is determined by authorities or courts, if not the value is 5% of the tax value determined according to the Tax Procedure Law.

Equivalent rental value for other property and rights is 10% of cost value of them, if it is unknown 10% of value determined according to provisions applicable to evaluation of wealth in the Tax Procedure Law.

Inapplicable Circumstances for Equivalent Rental Value

Equivalent Rental Value is not applicable in the following conditions:

- 1- Beneficial occupation for safe keeping purpose of void property.
- 2- Assignment of building to lineal ancestors, descendants or brother/sisters (if there is more than one house assigned to them, equivalent rental value for only one of them is not calculated. For married brother/sister equivalent rental value for only one of partners is not calculated.)

- 3- Residence of property owner with his/her relatives in the same house or flat.
- 4- Lease of property to general and annexed budget administrations, special provincial administrations, municipalities and other public body and organizations.

Applicable Circumstances for Equivalent Rental Value

Equivalent rental value is applied in the case of low or no value for rental income. According to this principle; the rental income under the equivalent rental value or obtained from beneficial occupation is subject to equivalent rental value.

Calculation of Equivalent Rental Value

Equivalent rental value for lands and buildings is determined by authorities or courts.

If this is not the case and no estimation or determination for building or land is stated; equivalent rental value is 5% of real estate tax value.

For instance, a nonresident alien lease his property with 100.000 YTL real estate tax value to his friend without charge; although there is no rental income, at least $(100.000 * 5\%) = 5.000$ YTL rental income is to be declared as equivalent rental value.

Payment Time and Place

The income tax is paid in two installments. The first installment in the month of March, and the second one in July will be paid.

The calculated tax can be paid to tax offices or authorized banks' branches.

Results of Non-filing or Understated Filing

In the case of non-filing or understated filing by taxpayer, the exception stated in Law is not valid.

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 it is required overdue interest for each delayed month.

The accrued tax, penalty and overdue interest is to be paid in a month after the due date of assessment.

Otherwise, late payment charge is calculated for each month (late payment of charge for fraction of months is calculated for each day of month) and collected by enforcement.

In the case of non-filing or understated filing by taxpayer, it is possible to declare the rental income according to the “penitence and rectification” clauses of Tax Procedure Law. Rental income exception is valid for taxpayers who declare rental income through penitence and tax penalty according to Tax Procedure Law is not applied. Penitence interest is applied for these taxpayers.

The Deductible Expenses from Rental Income

There are two different methods about the expenses that can be deducted from rental income in order to determine the net income of real property income;

- Lump-sum expenditure basis
- Actual expenditure basis.

The choice made between lump-sum and actual expenditure basis is applied to all immovable properties.

Only one of the expenditure basis can be applied for all immovable properties.

The Deductible Expenses in the Actual Expenditure Basis

In the case of selecting actual expenditure basis, following expenses are deductible from gross rental income;

- 1- Lighting, heating, water and elevator expenses for rented property paid by lessor,
- 2- Management charges related to administration of rented property and measured according to importance of property,
- 3- Insurance expenses of rented property and rights,
- 4- Interest of debts related to rented property and rights and 5% of acquisition value of a rented house for five years beginning from the date of acquisition. (This deduction is applied only for rental income of rented house; non-deductible part is not evaluated as expenditure surplus. This deduction is not valid for houses acquired before 2001.)
- 5- Real estate tax, fees, special assessments paid for rented property and right, participation rate paid to municipalities by lessor,
- 6- Amortization for rented property and rights,
- 7- Repair expenses of the rented property made by lessor,
- 8- Maintenance expenses of rented property and rights,
- 9- Rents and other actual expenses paid by subletter,
- 10- Rent of the house accommodated by lessor who rents their own properties (except for rents paid by non-resident taxable person in other countries)
- 11- Cost of damages and compensations paid for rented property and rights based on contract, act or judgment.

However, the amount of the expenses which correspond to exception is not deductible. Deductible expenses that correspond to taxable revenue are calculated by using following formula.

$$\frac{\text{Taxable Income} \times \text{Total Cost}}{\text{Total Income}}$$

Also, taxpayers who prefer the actual cost basis are supposed to keep all the documents about expenses for 5 years and submit them in case of tax office demand.

Allowance for Expenses in Lump-sum Expenditure Basis

%25 of rental income after deducting the exceptional amount from total rental income is deductible as allowance for expenses by taxpayers who preferred the lump-sum expenditure basis (except for the ones rented their rights).

However, after the preference for lump-sum expenditure basis, actual expenditure basis can not be chosen for 2 years.

Exception Applied to Rental Income

If there is more than one owner of a house, the exception for the taxation of rental income is applied individually for each owner as 2.200 YTL.

If the inheritance is not shared by the heirs, each heir can benefit individually from this exception.

In the case of rental income from more than one house, the exception is applied only once to the total rental income.

THE TAX SCHEDULE FOR THE YEAR 2006

Up to the amount of 7.000 YTL	%15
1.050 YTL for 7.000 YTL of 18.000 YTL, over	%20
3.250 YTL. for 18.000 YTL. of 40.000 YTL, over	%27
9.190 YTL. for 40.000 YTL of over amount exceeding 40.000 YTL, over	%35

FROM THE POINT OF VIEW IN TERMS OF DOUBLE TAXATION TREATIES

Real property rental income, is handled in sixth article, entitled “Obtained Income from Immovable Property”, of double taxation treaties executed by Turkey and right of taxation is left to country in which immovable property located.

In this case, taxation right of rental income obtained from immovable property in Turkey by individuals domiciled in contracting nation is left within the framework of procedures and principles stated in Turkish internal legislation and there is no any definitive clause for Turkish internal legislation.

EXAMPLES:

Example 1:

A German citizen has gained 10.000 Euro as rental income from his villa in Fethiye in 2006. He preferred the lump-sum expenditure basis 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 accepted as 1.80 YTL.

Income tax for rental income of taxpayer is calculated as:

The Total Gross Revenue (10.000 × 1,80)	18.000- YTL.
The Tax-exempt Amount	2.200- YTL.
The Balance (18.000-2.200)	15.800- YTL.
25% Lump-sum Expenditure (15.800 × %25)	3.950- YTL.
Taxable Income (15.800 – 3.950)	11.850- YTL.
The Calculated Income Tax ^(*)	2.020- YTL.
The Income tax payable	2.020- YTL.

^(*) The Calculated Income Tax will be found out according to the rates of the tax schedule for the year 2006.

Example 2:

Oliver Wahniger has gained 15.000 Euro as rental income from his house in Alanya in 2006. On the date of collection, buying rate for Euro announced by The Central Bank of Republic of Turkey is accepted as 1.80 YTL.

He preferred the lump-sum expenditure basis and he has no other income to declare in Turkey. His total actual expenses for this house is 3.000 Euro. On the date of expenses, buying rate for Euro announced by The Central Bank of Republic of Turkey is accepted as 1.80 YTL.

(In the actual expenditure basis, expenses correspond to tax-exempt amount is not deductible from total income, only expenses correspond to taxable income is deductible. Therefore, it is essential to calculate the amount of expenses that correspond to taxable income. The expense that corresponds to taxable income is calculated according to the following formula.)

$$\frac{\text{Taxable Income} \times \text{Total Cost}}{\text{Total Income}} = \frac{(27.000 \text{ YTL} - 2.200 \text{ YTL}) \times 5.400 \text{ YTL}}{27.000 \text{ YTL}} = 4.960 \text{ YTL}$$

Income tax for rental income of taxpayer is calculated as:

The Total Gross Revenue (15.000 x 1,80)	27.000- YTL.
The Tax-exempt Amount	2.200- YTL.
The Balance (27.000-2000)	24.800- YTL.
The Deductible Actual Expense	4.960- YTL.
Taxable Income (25.000-5000)	19.840- YTL.
The Calculated Income Tax ^(*)	3.746,80-YTL.
The Income tax payable	3.746,80- YTL.

^(*) The Calculated Income Tax will be found out according to the rates of the tax schedule for the year 2006.

