

GEDİK & ERAKSOY

November 2016

Incentives for Angel Investment Activities

*Turkish Treasury (the **Treasury**) aims to boost seed and angel funding and the Regulation on Individual Equity Contribution (the **Regulation**) sets out certain incentives and licencing regime for those who want to engage in angel investment activities in Turkey.*

Speed Read

In the start-up ecosystem, angel investors are known as real persons transferring their personal property, knowledge and savings to new entrepreneurs with business plans. In Turkey, as incentivised in many countries across the world, the Treasury offers tax incentives and governmental support to angel investors in order to make the angel funding more appealing.

Start-up company

An angel investor can only invest in the "start-up" companies as specified under the Regulation. The criteria set out under the Regulation for start-up companies are as follows:

- the entity must be a private joint stock company;
- the field of activity of the entity must fall within the activity list determined by the Treasury;
- the entity must not be controlled by a parent company or by the angel investor or by the angel investor's relatives;
- the annual turn-over of the entity must not exceed TL50,000,000 within the last two years before the investment; and
- no more than 50 employees must be employed by the entity.

In addition, after investment of an angel investor in a start-up company, the start-up company's articles of association should be amended to comply with the requirements set out under the Regulation and the company should also satisfy the reporting requirements provided under the Regulation.

BKY licence

In order for an angel investor to benefit from the incentives set out under the Regulation, a specific licence (the **BKY Licence**) must be obtained from the Treasury. A BKY Licence is valid for a term of five years;

which can be extended for another five year term upon the licence holder's application to the Treasury. The BKY Licence cannot be transferred to third parties.

There are two types of individuals eligible to obtain a BKY Licence: (i) investors who have high revenue or wealth including individuals with a gross revenue of TL200,000 or more in the last two years before applying for a BKY Licence or individuals with total asset of at least TL1,000,000 on the date application date; and (ii) experienced investors who are members of the individual equity contribution networks and have professional experience at managerial level in banks and financial institutions, companies with high turnover and domestic incubation centres as detailed in the Regulation.

Relationship between the investor and entrepreneurs

The Regulation also sets out articles seeking to protect the entrepreneurs (ie other shareholders of the start-up company). For instance, an angel investor cannot hold more than 50 per cent. of the shares of a start-up company. Furthermore, the angel investor cannot directly or indirectly acquire control of the start-up company.

An angel investor's role in the start-up company is limited with board membership. Therefore, the angel investor cannot be appointed to managerial positions other than board membership and receive any compensation from the start-up company.

However, the investor may hold privileged shares entitling the investor to be represented at the board of directors and the investor and the entrepreneur can freely determine the scope of the veto rights to be provided to the angel investor and the restrictions on the entrepreneur in this respect.

The angel investor cannot obligate the entrepreneur to enter into a debt agreement or provide securities such as mortgage or pledges in relation to its investment in a start-up company. The angel investor's failure to comply with this prohibition may result in the termination of the incentive scheme for that investment and cancellation of its BKY Licence.

Tax incentives

According to the Regulation, an angel investor can deduct 75 per cent. of the value of its shares from the income tax basis for the period in which the shares are acquired. If the start-up company is one of the businesses supported within the last five years by the Ministry of Science Industry and Technology, the Scientific and Technological Research Council of Turkey (ie "TÜBİTAK") or Presidency of Supporting and Developing Small and Medium Industry Development Organizations (ie "KOSGEB"), a 100 per cent. tax incentive can be possible. The tax incentives, however, cannot exceed TL1,000,000 within one year.

An angel investor is only eligible for tax incentives for the funding provided to a maximum of 20 separate start-up companies within each five year period.

In order for the angel investor to benefit from the tax incentive, its participation in the share capital of a company must be at least TL20,000; however, participation in the share capital of the same company within a year cannot be more than TL1,000,000.

Application for incentives

In order to benefit from the above-mentioned incentives, the angel investor is required to apply to the Treasury before investment. A business plan indicating the scope and purpose of the investments to the start-up company should also be submitted for the Treasury's review.

Gedik & Eraksoy Avukatlık Ortaklığı

Büyükdere Caddesi, River Plaza
Bahar Sokak, No: 13 Kat: 17
Levent, Istanbul
Turkey

Tel +90 212 371 2950
Fax +90 212 371 2955

www.gedikeraksoy.com

© Gedik & Eraksoy Avukatlık Ortaklığı 2016. This document is for general guidance only and does not constitute definitive advice.



Hakkı Gedik
Partner, Gedik & Eraksoy

Contact
Tel +90 212 371 2953
hakkı.gedik@gedikeraksoy.com



Gökhan Eraksoy
Partner, Gedik & Eraksoy

Contact
Tel +90 212 371 2952
gokhan.eraksoy@gedikeraksoy.com