

Turkey

EY contacts:

Istanbul

EY

Orjin Maslak Plaza Eski Büyükdere
Cad. No: 27 Turkey
Sarıyer, Istanbul
Turkey

Emre Celebiler

emre.celebiler@tr.ey.com
+90 212 408 57 62

1. Types of tax

The transfer of goods that belong to Turkish citizens and the transfer of goods in Turkey from one person to another person by inheritance or gratuitously in another way are subject to inheritance and gift tax.

The inheritance and gift tax is also applicable for the goods that Turkish citizens acquire abroad in the same ways.

However, a foreign person who does not have a place of residence in Turkey and who acquires a Turkish citizen's goods that are outside the borders of Turkey by inheritance or gratuitously in another manner, cannot be held liable for the inheritance and gift tax.

The inheritance and gift tax base is the value of the transferred goods determined according to the Tax Procedural Code. (See Section 6 for details of valuation.) If deduction of the debt and cost specified in the Inheritance and Gift Tax Law is required, the inheritance and gift tax base is the remaining amount of value of the transferred goods determined according to the Tax Procedural Code after deduction of these debts and costs.



1.1 Inheritance tax

The transfer of goods obtained from heritage, testament and inheritance contracts is subject to inheritance tax.

1.2 Gift tax

The gratuitous transfer of goods by donation or another manner is subject to gift tax.

1.3 Real estate transfer tax

There is no tax in Turkey called "real estate transfer tax." However, real estate transfer is subject to the taxes mentioned below.

The transfer of real estate that belongs to Turkish citizens, and the transfer of real estate in Turkey from one person to another person by inheritance or gratuitously in another manner, are subject to inheritance and gift tax.

Income derived from the sale of real estate for money by an individual person within five years from the date of acquisition of that real estate is subject to income tax. However, income derived from the sale of real estate transferred by inheritance or gratuitously is not subject to income tax.

1.4 Endowment tax

There is no tax in Turkey called “endowment tax.” However, the gratuitous transfer of goods by donation or another manner is subject to inheritance and gift tax.

1.5 Transfer duty

There is no tax in Turkey called “transfer duty.” However, the transfer of goods that belong to Turkish citizens and the transfer of goods in Turkey from one person to another person by inheritance or gratuitously in another manner are subject to inheritance and gift tax.

1.6 Net wealth tax

In Turkey, wealth and transfer of wealth are subject to tax. Property tax and motor vehicles tax are taxes on wealth. Also, transfer of wealth to another person by inheritance or gratuitously in another manner is subject to inheritance and gift tax.

1.7 Luxury housing tax

A new tax for luxury housing is established and effective as of 1 January 2020 in Turkey. Accordingly, properties valued above TRY5,000,000 will be subject to tax at a progressive tax rate ranging from %0.3 to %1, of the item's appraised value.

On 20 February 2020, Turkish Law No. 7221, which contains amendments to the luxury housing tax, was published in the *Official Gazette* and entered into force. In accordance with the law, the following changes are made with respect to the luxury housing tax:

- ▶ The luxury housing tax will be levied as of the beginning of 2021. Consequently, tax returns to be submitted as of 20 February 2021 for the current year.
- ▶ The General Directorate of Land Registry and Cadastre will cease to determine the values of the houses that are subject to tax. Going forward, “the Building Tax Value” of the houses regulated by the Real Estate Tax Law provisions will be taken into account in determining whether a house is subject to tax.
- ▶ The 2021 luxury housing tax rates will be calculated based on the below tariffs:
 - ▶ 0.3% for houses with a value between TRY5.227 million and TRY7.841 million (including TRY7.841 million)
 - ▶ 0.6% for houses with a value between TRY7.842 million and TRY10.455 million (TRY7.842 up to the immovable value of TRY7.841 million)
 - ▶ 1% for houses with a value exceeding TRY10.455 million (TRY23.526 up to the immovable value of TRY10.455 million)
- ▶ Those who own only one residence will not be subject to the luxury housing tax regardless of their type of income or whether they are retired.
- ▶ Those who own more than one real estate qualified as their residence will not be subject to the luxury housing tax on their residence with the lowest value.

2. Who is liable?

2.1 Residency

Recipients of property through inheritance or donation are subject to inheritance and gift tax.

Turkish citizens are subject to inheritance and gift tax on worldwide assets received.

Resident foreigners are subject to inheritance and gift tax on worldwide assets received from Turkish citizens and on assets located in Turkey received from resident foreigners or nonresidents.

Nonresident foreigners are subject to inheritance and gift tax on assets located in Turkey only.

2.2 Domicile

Tax residency and tax domicile have the same meaning from a Turkish tax point of view.

3. Rates

Items acquired as gifts or through inheritance are subject to a progressive tax rate ranging from 10% to 30% and 1% to 10%, respectively, of the item's appraised value.

For the 2021 tax year

Taxable value of the acquisition (TRY) (*)	Tax rate for inheritance (%)	Tax rate for gift (%)
First 380,000	1	10
Following 900,000	3	15
Following 1.9 million	5	20
Following 3.6 million	7	25
Taxable value more than 6.780 million	10	30

* Please note that for the 2021 tax year, TRY334,534 of inheritance gains and TRY7,703 of gift gains are exempt from tax.

For the gratuitous transfer of goods between mother, father, spouse and children (other than gratuitous transfers from adoptive child to adoptive parents), gift tax is calculated by using half of the rates in the tariff related to gifts.

4. Exemptions and reliefs

The following transfers are exempt from inheritance and gift tax:

- ▶ Household goods transferred through inheritance, and personal belongings of the descendant and belongings kept as heirlooms, such as paintings, swords or medals
- ▶ For the 2021 tax year, TRY334,534 of the inheritance shares corresponding to each child and spouse, including adopted children, from movable or immovable properties, the value of which is determined according to Article 10 (if there are no children, TRY669,479 of the inheritance share corresponding to the spouse)
- ▶ Gifts, devices, dowry and other things that are given as per customs (except for immovable properties)
- ▶ All charities
- ▶ For the 2021 tax year, TRY7,703 of transfers made voluntarily
- ▶ For the 2021 tax year, TRY7,703 of prizes won in games of chance defined under Law No. 5602 (dated 14 March 2007) on Regulation of Taxes, Funds and Shares Received from the Revenue of Games of Chance
- ▶ The financial support provided duly and in accordance with their purposes as per their status by the persons included within the scope of paragraphs (a) and (b) of Article 3 of the Inheritance and Gift Law, which contains provisions about the persons exempt from inheritance and gift tax
- ▶ Salaries given to widows and orphans by public administrations and institutions or institutions subject to Law No. 3659 or associations with public utility or retirement funds (or from organizations with this nature); retirement bonus given apart from these salaries; marriage bonuses given to widows and orphans; collective payments made instead of salaries to the widows and orphans of decedents that had not completed the term of services; and amounts paid to disabled soldiers and orphans of martyrs from seller's share of monopoly administrations
- ▶ One-fold of the amount accepted under paragraph (b) from the value of all the goods transferred to the children and spouse or mother and father of officers, petty officers and soldiers (including Gendarmerie) who died in a war or in a conflict with bandits, or during movements and practices, or as a result of being wounded in these; and similarly of police department members who died on duty
- ▶ In donations made with recourse condition according to Article 242 of the Code of Obligations, in case the donee dies before the donor; donated goods are recouped to the donor
- ▶ Goods transferred in the nature of bare ownership (provided that it stays as bare ownership) except for the transfers made voluntarily between living persons
- ▶ Goods allocated to foundations, which are granted with tax exemption by the Council of Ministers, for their incorporation or after their incorporation
- ▶ Amounts distributed to owners of commercial-plate vehicles from the money derived from the sales of commercial plates by the traffic commissions authorized with the Council of Ministers Resolution in provinces where plate restriction is applied
- ▶ Procedures related to transfer and acquisition through transfer and inheritance of registered immovable cultural assets within the scope of Law No. 2863 on Protection of Cultural and Natural Assets
- ▶ Economic transfers and aids to be made to government business enterprises from the budgets of general and annexed budget administrations
- ▶ Entitled parts of the state's contribution to the individual retirement account within the scope of Individual Retirement, Savings and Investment System Law No. 4632 and dated 28 March 2001

According to the second, fifth and sixth bullets, exemption limits to be applied in each calendar year are determined by increasing the previous year's exemption limits at the revaluation rate specified as per the provisions of Tax Procedures Code for the current year.

5. Filing procedures

Date for declaration and payment of tax

Declaration of the tax

Inheritance and gift tax is assessed on the declaration submitted by the respondent.

In the case of inheritance:

- ▶ The declaration will be submitted within four months starting from the date of death as a rule of law.
- ▶ If the death occurs in Turkey and the taxpayer is outside of Turkey, the declaration period is extended to six months.
- ▶ If the death occurs outside of Turkey and the taxpayer is in Turkey, the declaration will be six months starting from the date of death.
- ▶ In the case of occurrence of death in a foreign country and the taxpayer is in the same foreign country, the declaration period will be four months.
- ▶ However, when the death occurs in a foreign country and the taxpayer is in another foreign country, the declaration period is extended to eight months.
- ▶ In case of absence, the declaration will be submitted within one month starting from the date of declaration of presumed death.

In the case of gratuitous transmissions, the declaration will be submitted within one month following the date of acquisition of the properties.

For the competitions and lottery drawings organized by real persons or entities and chance games that are defined in Law No. 5602, the declaration will be submitted until the 20th of the following month of the day on which competition, lottery drawings and contests are done.

Payment of the tax

Inheritance and gift tax is paid over three years in two equal installments, in May and November each year. However, for prizes paid to the winners in competitions and lottery drawings organized by real persons or entities and prizes distributed in chance games that are defined in Law No. 5602, gift tax is paid within the submission period of the declaration.

Declaration and payment of tax for the transfer of real estate

Registration of real estate that is gained through succession is done without waiting for the accrual of the inheritance and gift tax, provided that the result is declared to a related tax office within 15 days at the latest starting from the registration date. However, transfer and alienation of the real estate that is gained through succession cannot be done, and no real right can be established over the real estate unless inheritance and gift tax related to acquired real estate is fully paid. Recording officers cannot execute transfer and alienation transactions without a severance document provided by the tax office, otherwise, recording officers are held responsible successively for the payment of the tax along with the taxpayer. However, if the taxpayers provide collateral (in terms of collateral defined in Law No. 6183) against the accrued tax, all or part of the real estate gained through succession is allowed to be transferred and alienated.

6. Assessments and valuations

Valuation

Valuation of goods that are transferred through inheritance or other ways is done in two stages.

First, taxpayers value and declare the transferred goods according to the methodologies defined in the Inheritance and Gift Tax Law. According to the Tax Procedural Code, if there is no defined methodology stated in the tax law, wealth declared by taxpayers is subject to second valuation by the tax authority. In this stage, valuation methodologies, which are defined in the Tax Procedural Code, are applied.

Valuation methodologies defined in the Inheritance and Gift Tax Law and the Tax Procedural Code are provided below:

Type of good	Method of valuation (under Inheritance and Gift Tax Law – first valuation by the taxpayer)	Method of valuation (under Tax Procedural Code – valuation by the tax office)
Commercial capital	Shareholders' equity shown in the balance sheet of year preceding the death year. It is also possible to make valuation by using the shareholders' equity in the balance sheet of the death date.	Commodities, ships and vehicles, installments and machines, inventory stock and other movable assets in a commercial capital included in taxable possessions are valued at arm's-length prices.
Real estate	Taxable value	Taxable value
Movable goods and ships	Market value	Comparable value
Equity	1. If it is listed in a stock market, it is valued with the most recent market price in the three years from death. 2. If it is not listed in a stock market or it is not traded for three years from death, it is valued with nominal value.	Market prices of stocks, whether included in the commercial capital or not, and stocks that are not registered in the stock exchange are valued at arm's-length prices. If it is detected that there is simulation in the determination of the market price, arm's-length price is taken as a basis rather than this price.
Bond	Nominal value	Market prices of bonds, whether included in the commercial capital or not, and bonds that are not registered in the stock exchange are valued at arm's-length prices. If it is detected that there is simulation in the determination of the market price, arm's-length price is taken as a basis rather than this price.
Foreign currency	Market value (if the market value does not exist, Central Bank's buying rate is used in calculation)	Market value (Central Bank's buying rate)
Rights	Land registration value for the rights that are subject to registration. Rights that are not subject to registration are not taken into account in the first valuation.	Rights that are subject to registration are valued by land registration value; others are valued by comparable value.

7. Trusts, foundations and private purpose funds

Foundations are institutions of social assistance and social solidarity that meet the needs of different areas of society and help prevent social injustice that occurs as a result of competition between people and institutions.

Established foundations aiming to use at least two-thirds of their overall revenues to fulfill the service or services that took part in the budget of public or private administration can be exempted from tax by the decision of the Council of Ministers.

According to Article 4 of the Inheritance and Gift Tax Code, goods allocated to foundations that are granted a tax exemption by the Council of Ministers for their incorporation or after their incorporation are exempt from inheritance and gift tax.

8. Grants

The transfer of goods by inheritance or gratuitously is subject to inheritance and gift tax. However, transfers and grants mentioned in Section 4 are exempt from inheritance and gift tax.

9. Life insurance

Payment from the insurance company to the heirs as a result of natural death of the life insurance policy owner is subject to inheritance and gift tax, with the tax rate of inheritance. However, payment from the insurance company to a person who is not an heir as a result of the natural death of the life insurance policy owner is the gratuitous transfer of money and is subject to inheritance and gift tax, with the tax rate of gift.

10. Civil law on succession

10.1 Estate planning

This is not applicable in Turkey.

10.2 Succession

Under the “universal succession” principle, heirs automatically gain inheritance in accordance with the law as a whole upon the decedent’s death. Heirs directly gain all of the decedent’s property rights, receivables, rights of other properties and rights on movable goods and real estate, and they are personally liable for the decedent’s debts.

Inheritance may be rejected within three months by the heirs.

10.3 Forced heirship

In Turkey, descendants are the first-degree heirs of the deceased person. Children’s heirship has equal share. When children are still alive, the grandchildren do not inherit, but if a child has died before the deceased person, his or her children (grandchildren) inherit their share of the estate.

If there are no children, the parents have automatic inheritance right. Parents have equal heirship shares. If only one parent is living, the descendants of the deceased parent inherit the share attributed to this parent. If both parents are deceased, their children or grandchildren (sisters, brothers, nieces and nephews of the deceased person) receive the inheritance of their parents.

If there are no children or parents, the grandparents have automatic inheritance right. Grandparents have equal heirship shares. If the grandparents are deceased, their descendants inherit their portion.

The spouse will be the heir by these proportions:

- Receive a quarter of the share if there are descendants of the deceased person
- Receive half of the share if there are parents
- Receive three-quarters of the share if there are grandparents
- Receive the entire share if there is no legal inheritance

If there are no heirs at all, the state of Turkey is entitled to inherit the estate of the deceased.

10.4 Matrimonial regimes and civil partnerships

Participation in goods acquired and matrimonial agreements

In Turkish Civil Law, spouses have the half share of the acquired goods remaining after the deduction of liabilities related to these goods. Some properties of the acquired goods belonging to a spouse are listed in the law as follows:

- Acquisitions resulting from work
- Payments made by social security and welfare entities or personnel relief funds
- Claims paid due to loss of working ability
- Incomes of personal belongings
- Values that are substitutes of acquired goods

According to Turkish Civil Law, matrimonial agreements, which define the proportion of the right on the goods acquired, could also be made. If there is a matrimonial agreement between spouses, shares of each spouse are determined according to this agreement.

10.5 Intestacy

Three types of will are stated in Turkish Civil Law:

1. Legal will
2. Oral will
3. Handwritten will

A legal will is a legal document that regulates an individual's estate after death. Two witnesses are needed, and it is edited by a legal civil officer.

If the will is handwritten, witnesses are not necessary. A handwritten will is required to be fully written and must be signed. It should also include the exact date, which consists of day, month and year, that the will was created. A handwritten will may be left to a notary, justice of the peace or authorized officer in order to be kept in an open or closed manner.

For oral wills, which are possible only in very special cases, including risk of sudden death, being inaccessible, illness, war, etc., two witnesses are required to listen to the last wishes of the devisor and write a will complying with the declaration of the devisor.

If there is no valid will, the rules of intestate succession will apply (see above).

10.6 Probate

A will must be delivered to a justice of the peace after the death of the individual, regardless of whether it is valid or not.

The officer who regulates or maintains the testament, or the person who stores it on request of the deceased person or finds the will, is responsible for delivering the will to the justice of the peace. Otherwise, he or she is responsible for the damage caused by not delivering the will. The justice of the peace examines the will immediately and takes the necessary means of protection and decides to deliver the heritage to the heirs temporarily or manage the heritage legally after listening to the responsible people, if it is possible.

Within one month from the delivery of the will, it must be opened and read by the justice of the peace from the settlement area of the deceased person.

Known heirs and other interested parties are called if they wish during the opening of the will.

The same procedures will be performed for subsequent wills.

A certified copy of portions of the will of the rightful heirs will be notified by the judge to the entitled heirs.

11. Estate tax treaties

11.1 Unilateral rules

A foreign person who does not have a place of residence in Turkey and who acquires a Turkish citizen's goods that are outside the borders of Turkey by inheritance or gratuitously in another manner cannot be held liable for the inheritance and gift tax.

The transfer of goods in Turkey from one person to another person by inheritance or gratuitously in another manner is subject to inheritance and gift tax.

11.2 Double-taxation treaties

There are currently no estate tax treaties established between Turkey and other countries.