

# Turkey

## Contacts

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## 1. Types of tax

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

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 way, cannot be held liable for the inheritance and gift tax.

Inheritance and gift tax base is the value of the transferred goods determined according to 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, inheritance and gift tax base is the remaining amount of value of the transferred goods determined according to Tax Procedural Code after deduction of these debt and costs.)

### 1.1 Inheritance tax

The transition of goods obtained from heritage, testament and inheritance contract is subject to inheritance tax.

### 1.2 Gift tax

The transition of goods gratuitously by donation or any style 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 transition of real estate that belongs to Turkish citizens and the transition of real estate in Turkey from one person to another person by inheritance or gratuitously in another way are subject to inheritance and gift tax.



Income derived from the sale of the 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 the 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 transition of goods gratuitously by donation or any style is subject to inheritance and gift tax.

#### 1.5 Transfer duty

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

#### 1.6 Net wealth tax

In Turkey, wealth and transition 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 way is subject to inheritance and gift tax.

### 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.

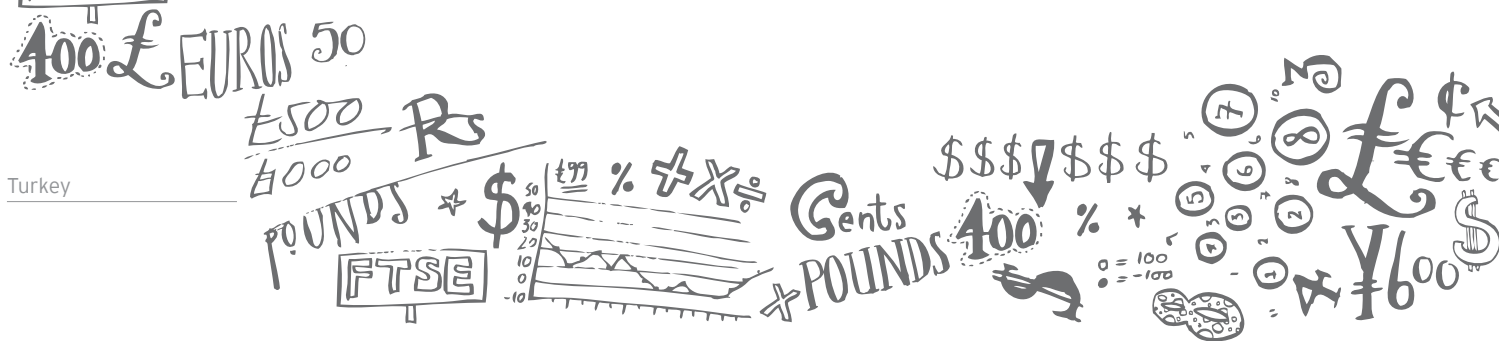
Nonresident foreigners are subject to inheritance and gift tax on assets located in Turkey only.

#### 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.



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#### For the 2014 year

Taxable value of the acquisition (*)	Tax rate for inheritance (%)	Tax rate for gift (%)
First TRY190,000	1	10
Following TRY440,000	3	15
Following TRY970,000	5	20
Following TRY1.8 million	7	25
Taxable value more than TRY3.4 million	10	30

\* Please note that for the 2014 year, TRY146,306 of inheritance gains and TRY3,371 of gift gains are exempt from tax.

For the transfer of goods from mother, father, spouse and children (other than gratuitous transfers from adoptive child to adoptive parents) gratuitously, inheritance and 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 2014 year, TRY146,306 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, TRY292,791 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 2014 year, TRY3,371 of transfers made voluntarily.
- ▶ For the 2014 year, TRY3,371 of the 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 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 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 resorted 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. During the increase, the amounts up to TRY1 are ignored.

## 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 respondent.

In the case of inheritance:

- ▶ The declaration will be submitted in 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 the 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 in one month starting from the date of declaration of presumed death.

In the case of transmissions by gratuitous, the declaration will be submitted in one month following the date of acquirement 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 twentieth 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 the 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 the real estate that are 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 are 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.



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## 6. Assessments/valuation

### 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 regarding 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 subjected to second valuation by the tax authority. In this stage, valuation methodologies, which are defined in 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 tax payer)	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, instalments 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	<ol style="list-style-type: none"> <li>1. If it is listed in a stock market, it is valued with the most recent market price in the three years from death.</li> <li>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.</li> </ol>	Market prices of stocks whether included in the commercial capital or not and stocks which 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 which 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. Foundations

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 of 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 the Article 4 of Inheritance and Gift Tax Code, goods allocated to foundations, which 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 transition 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 of 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 of 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 transition of money gratuitously and 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

Heirs gain the inheritance in accordance with the law as a whole with death of successor. Heirs directly gain property rights, receivables, rights of other properties and rights on the movable goods and real estate, and they are personally liable for the debts of the heir.

Heritage 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. Where 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 part.





The spouse will be the heir by these proportions:

- ▶ Receive quarter of the share if there are descendants of the deceased person.
- ▶ Receive half of the share if there are parents.
- ▶ Receive three-fourths 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 the mentioned 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 be signed. It should also include the exact date, which consists of day, month and year, of the intestacy. A handwritten will may be left to notary, justice of 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 close death risk, being inaccessible, illness, war, etc., two witnesses are required to listen to the last wishes of the devisor and write a will complying to 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 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 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 will, it must be opened and read by the Justice of the Peace of 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 way cannot be held liable for the inheritance and gift tax.

The transition of goods in Turkey from one person to another person by inheritance or gratuitously in another way 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.

#### Additional reading materials

Since the explanations provided in Section 10 are related to Turkish Civil Law, further legal advice should be sought regarding these matters.