

TAXATION OF INCOME FROM FUTURES

MARCH 2009



PRICEWATERHOUSECOOPERS 

INTRODUCTION

The explanations below regarding the taxation of income generated from futures and options on Turkish Derivatives Exchange (“Turkdex”) has been prepared by PricewaterhouseCoopers for Turkdex on 30 March 2009

Within this framework please note the following;

- Investors (corporate and/or individual) should consult their own advisors in order to evaluate their own tax positions. Regarding the explanations provided below PricewaterhouseCoopers shall not take any responsibility on any loss arising from transactions carried out relying on the below explanations unless a case specific written opinion letter is obtained.
- In addition, herein below no theoretical explanations or suggestions to the current law is made, but rather the explanations below merely reflect the opinion of PricewaterhouseCoopers on the taxation regime under the current tax legislation.
- Unless it is stated otherwise, “futures and options” refer to the contracts traded on Turkdex but not over the counter or those executed on foreign exchanges. The term “Futures” below refer to “contracts giving the right to buy or sell any economic and financial indicator, capital market instrument, commodity, precious metal and foreign exchange at a predetermined price, amount and quality in a predetermined period pursuant to the Decree Regarding the Establishment and Operations of Futures and Options Exchange dated 23.2.2001 and published in the Official Gazette numbered 24327.
- The taxes covered within the scope of this report are those levied under the Income Tax Law, Corporate Tax Law, Value Added Tax, Banking and Insurance Transactions Tax Law and Stamp Tax Law.

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PricewaterhouseCoopers – Başaran Nas YMM A.Ş.
Süleyman Seba Caddesi No: 48 BJK Plaza B Blok K.9 34357 Akaretler, Beşiktaş/İstanbul
Tel: + 90 212 3266060
Fax: + 90 212 3266050
www.pwc.com/tr
www.vergiportali.com

For more information please contact **PricewaterhouseCoopers Banking & Capital Markets Team**.

Faruk Sabuncu

Partner
Telephone: + 90 212 3266082
Facsimile: + 90 212 3266083
E-mail: Faruk.sabuncu@tr.pwc.com

Umurcan Gago

Partner
Telephone: + 90 212 3266098
Facsimile: + 90 212 3266473
E-mail: Umurcan.gago@tr.pwc.com

tls.bcm@tr.pwc.com

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ABBREVIATIONS

	<u>Abbreviation</u>
Banking and Insurance Transaction Tax	BITT
Double Tax Treaty	DTT
Value Added Tax	VAT
Withholding Tax	WHT

I- INDIVIDUAL INVESTORS

A- Taxation of Individual Investors Resident in Turkey

For tax purposes, an individual is considered resident if his/her legal residence is in Turkey or if s/he stays in Turkey for a continuous period of more than six months in a calendar year (leaving the country on a temporary basis is not considered as an interruption). However foreign businessman, scientists, experts, officers, press or broadcasting correspondents and persons alike as well as those who visit Turkey for specific or temporary assignments and persons who visit Turkey for touristic, educational, medical rehabilitation, resting or travel purposes or persons detained due to illness, custody or arrested are not deemed to be resident in Turkey.

a Within the period of holding the position

Should the Transaction not carried out within the scope of commercial activity¹

1 **Long Position Holder**

- Until the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
- The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such gains².

2 **Short Position Holder**

- Until to the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
- The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such gains³.

¹ Income arising from every kind of commercial activity is deemed as commercial income (i.e: income generated by those who continuously purchase and sell securities on their own behalf is deemed as commercial income).

² The taxation of income over non-cash margin deposited with the clearing & settlement house depends on the nature of margin and income.

³ The taxation of income generated from the non-cash deposits with the clearing & settlement house depends on the nature of margin and income.

Should the Transaction carried out within the scope of commercial activity⁴

- 3 **Long Position Holder**
- The position is to be valued through mark-to-marketing. The income thus generated from valuation through mark-to-marketing is to be included into the commercial income.
 - The interest accruals on margin deposited with the clearing & settlement house is to be included into the commercial income. The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT can be offset against income tax calculated over the gain shown in the annual tax return.
 - No VAT is levied over the interest accruals.
- 4 **Short Position Holder**
- The position is to be valued through mark-to-marketing. The income thus generated from valuation through mark-to-marketing is to be included into the commercial income.
 - The interest accruals on margin deposited with the clearing & settlement house is to be included into the commercial income. The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT can be offset against income tax calculated over the gain shown in the annual tax return.
 - No VAT levied over the interest accruals.

⁴ The explanations above are not inclusive of the taxation of bankers and persons who derive agricultural income.

b Neutralizing position through offsetting order

*Should the Transaction not carried out within the scope of commercial activity*⁵

5 Long Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and WHT is the final taxation⁶. No declaration is required for such gains. In case of a loss, it cannot be offset against any other taxable income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains.

6 Short Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and WHT is the final taxation⁷. No declaration is required for such gains. In case of a loss, it cannot be offset against any other taxable income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains.

⁵ Income arising from every kind of commercial activity is deemed as commercial income (i.e. income generated by those who continuously purchase and sell securities on their own behalf is deemed as commercial income).

⁶ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

⁷ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

*Should the Transaction carried out within the scope of commercial activity*⁸

7 **Long Position Holder**

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included to the commercial income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security. WHT can be offset against income tax calculated over the gain shown in the annual tax return⁹.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains where these gains are to be included into the commercial income.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position.

8 **Short Position Holder**

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included to the commercial income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security. WHT can be offset against income tax calculated over the gain shown in the annual tax return¹⁰.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains where these gains are to be included into the commercial income.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position.

⁸ The explanations above are not inclusive of the taxation of bankers and persons who derive agricultural income.

⁹ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

¹⁰ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

C Cash Settlement

Should the Transaction not carried out within the scope of commercial activity¹¹

9 Long Position Holder

- The contract is terminated within the framework of the provisions of the contract. The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and WHT is the final taxation¹². No declaration is required for such gains. In case of a loss, it cannot be offset against any other taxable income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains where these gains are to be included into the commercial income.

10 Short Position Holder

- The contract is terminated within the framework of the provisions of the contract. The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and WHT is the final taxation¹³. No declaration is required for such gains. In case of a loss, it cannot be offset against any other taxable income. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (ie: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index futures and WHT is the final taxation. No declaration is required for such gains where these gains are to be included into the commercial income.

¹¹ Income arising from every kind of commercial activity is deemed as commercial income (i.e. income generated by those who continuously purchase and sell)

¹² Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

¹³ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

Should the Transaction carried out within the scope of commercial activity¹⁴

- 11 **Long Position Holder**
- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return¹⁵. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
 - However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
 - In case of a loss, it is deducted from the commercial income.
 - No VAT levied over the income.
- 12 **Short Position Holder**
- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return¹⁶. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
 - However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
 - In case of a loss, it is deducted from the commercial income.
 - No VAT levied over the income.

¹⁴ The explanations provided above do not include the taxation of bankers and persons who derive agricultural income.

¹⁵ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

¹⁶ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

B- Taxation of Non-Resident Individual Investors in Turkey

For tax purposes, an individual is considered resident if his/her legal residence is in Turkey or if s/he stays in Turkey for a continuous period of more than six months in a calendar year (leaving the country on a temporary basis is not considered as an interruption). However foreign businessman, scientists, experts, officers, press or broadcasting correspondents and persons alike as well as those who visit Turkey for specific or temporary assignments and persons who visit Turkey for touristic, educational, medical rehabilitation, resting or travel purposes or persons detained due to illness, custody or arrested are not deemed to be resident in Turkey.

a Within the period of holding the position

Should the Transaction not carried out within the scope of commercial activity¹⁷

- 13 **Long Position Holder**
- Until the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
 - The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such incomes. Double Tax Treaty provisions are reserved¹⁸.
- 14 **Short Position Holder**
- Until the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
 - The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such incomes. Double Tax Treaty provisions are reserved¹⁹.

¹⁷ Income Arising from every kind of commercial activity is deemed as commercial income (i.e: income generated by those who continuously purchase and sell securities on their own behalf is deemed as commercial income).

¹⁸ The taxation of income over non-cash margin deposited with the clearing & settlement house depends on the nature of margin and income.

¹⁹ The taxation of income over non-cash margin deposited with the clearing & settlement house depends on the nature of margin and income.

Should the Transaction carried out within the scope of commercial activity^{20 21}

- 15 **Long Position Holder**
- The position is to be valued through mark-to-marketing. The gain (or loss) thus generated from valuation through mark-to-marketing is to be included into the commercial income.
 - The interest accruals on margin deposited with the clearing & settlement house is to be included into the commercial income. The interest accruals on margin deposited with the clearing & settlement house are subject to 15% WHT and WHT is offset against income tax calculated over the gain shown in the annual tax return.
 - No VAT is levied over the interest accruals.
- 16 **Short Position Holder**
- The position is to be valued through mark-to-marketing. The income thus generated from valuation through mark-to-marketing is to be included into the commercial income.
 - The interest accruals on margin deposited with the clearing & settlement house is to be included into the commercial income. The interest accruals on margin deposited with the clearing & settlement house are subject to 15% WHT and WHT is offset against income tax calculated over the gain shown in the annual tax return .
 - No VAT is levied over the interest accruals.

b Neutralizing position through offsetting order

Should the Transaction not carried out within the scope of commercial activity²²

- 17 **Long Position Holder**
- The income thus generated is subject to 0% WHT and WHT is the final taxation²³. No declaration is required for such income. In case of a loss, it cannot be set off against any other taxable income.
- 18 **Short Position Holder**
- The income thus generated is subject to 0% WHT and WHT is the final taxation²⁴. No declaration is required for such income. In case of a loss, it cannot be set off against any other taxable income.

²⁰ Activities carried out through a fixed place of business or a permanent representative in Turkey constitute commercial activity. The term "a fixed place of business" refers to, stores, offices, administrative offices, consulting rooms, manufacturing plant, branch offices, depots, hotels, coffee houses, places of entertainment and sports activities, fields, vineyards, gardens, farms, stockyards, weirs and netting areas, mines, quarries, construction sites, and food and sundry stands on ships which are used for the performance of a commercial, industrial, agricultural or professional activities or places which are employed in such activities. The term "Permenant Representative" refers to a real or legal person who is associated with the person being represented by means of a service agreement or power of attorney. Also commercial representatives, merchant agents and officers together with agents established in conformity with Turkish commercial code and persons whose expenses met partially or fully on a continuous basis (except the advertising expenses) by the person represented and persons continuously selling consignment goods in depots and stores are deemed to be permanent representatives.

²¹ The explanations above are not inclusive of the taxation of bankers and persons who derive agricultural income.

²² Income arising from every kind of commercial activity is deemed as commercial income (i.e: income generated by those who continuously purchase and sell securities on their own behalf is deemed as commercial income).

²³ Investors should present their certificate of residence to the tax office in order to benefit from 0% rate after 2008.

²⁴ Investors should present their certificate of residence to the tax office in order to benefit from 0% rate after 2008.

Should the Transaction carried out within the scope of commercial activity²⁵

19 **Long Position Holder**

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return²⁶. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position.

20 **Short Position Holder**

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return²⁷. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position.

²⁵ The explanations above are not inclusive of the taxation of bankers and persons who derive agricultural income.

²⁶ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

²⁷ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

c Cash Settlement

*Should the Transaction not carried out within the scope of commercial activity*²⁸

- 21 **Long Position Holder**
- The contract is terminated within the framework of the provisions of the contract. The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such incomes²⁹. The loss cannot be set off against any other taxable income.
- 22 **Short Position Holder**
- The contract is terminated within the framework of the provisions of the contract. The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such income³⁰. The loss cannot be set off against any other taxable income.

²⁸ Income arising from every kind of commercial activity is deemed as commercial income (i.e. income generated by those who continuously purchase and sell securities on their own behalf is deemed as commercial income).

²⁹ Investors should present their certificate of residence to the tax office in order to benefit from 0% rate after 2008.

³⁰ Investors should present their certificate of residence to the tax office in order to benefit from 0% rate after 2008.

Should the Transaction carried out within the scope of commercial activity³¹

- 23 **Long Position Holder**
- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³². On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
 - However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
 - In case of a loss, it is deducted from the commercial income.
 - No VAT levied over the income.
- 24 **Short Position Holder**
- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³³. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
 - However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
 - In case of a loss, it is deducted from the commercial income.
 - No VAT levied over the income.

³¹ The explanations above the taxation of bankers and persons who derive agricultural income.

³² Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

³³ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

II- CORPORATE INVESTORS

A- Taxation of Resident Corporate Investors in Turkey

Share capital companies, co-operatives, state institutions, enterprises owned by foundations, and charities and joint ventures that have either legal or business centres in Turkey are regarded as non-residents. A legal centre is the centre stated in the Articles of Association (or in the law) of these corporations, whereas a business centre is the place where all activities are coordinated and administered.

a Within the period of holding the position

- 25 **Long Position Holder**
- The position is to be valued through mark-to-marketing. The income thus generated through mark-to-marketing is to be included into the corporate income and the loss derived from mark-to-marketing is to be deducted from corporate income.
 - The interest accruals on margin deposited with clearing & settlement house is to be included into corporate income. The interest accruals on margin deposited with the clearing & settlement house are subject to 15% WHT and WHT is offset against income tax calculated over the profit shown in the corporate tax return. No VAT is calculated upon interest accruals. For BITT payers BITT is levied over the interest accruals.
- 26 **Short Position Holder**
- The position is to be valued through mark-to-marketing. The income thus generated through mark-to-marketing is to be included into the corporate income and the loss derived through mark-to-marketing is to be deducted from corporate income.
 - The interest accruals on margin deposited with clearing & settlement house is to be included into corporate income. The interest accruals on margin deposited with the clearing & settlement house are subject to 15% WHT and WHT is offset against income tax calculated over the gain shown in the corporate tax return. No VAT is calculated upon interest accruals. For BITT payers BITT is levied over the interest accruals.

b Neutralizing position through offsetting order

27 Long Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³⁴. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

28 Short Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³⁵. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived

³⁴ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

³⁵ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

c Cash Settlement

29 Long Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³⁶. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

30 Short Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return³⁷. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

³⁶ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

³⁷ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

B- Taxation of Non-Resident (legal/business centre located abroad) Corporate Investors

The taxation regime of income generated from futures contracts carried out by non-resident corporate investors differentiates depending on whether these transactions are carried out through a fixed place of business or permanent representative in Turkey or not.

B 1 – Taxation of Non-Resident Corporate Investors operating without a fixed place of business or permanent representative

Activities carried out through a fixed place of business or a permanent representative in Turkey constitute commercial activity. The term "a fixed place of business" refers to, stores, offices, administrative offices, consulting rooms, manufacturing plant, branch offices, depots, hotels, coffee houses, places of entertainment and sports activities, fields, vineyards, gardens, farms, stockyards, weirs and netting areas, mines, quarries, construction sites, and food and sundry stands on ships which are used for the performance of a commercial, industrial, agricultural or professional activities or places which are employed in such activities. The term "Permanent Representative" refers to a real or legal person who is associated with the person being represented by means of a service agreement or power of attorney. Also commercial representatives, merchant agents and officers together with agents established in conformity with Turkish commercial code and persons whose expenses met partially or fully on a continuous basis (except the advertising expenses) by the person represented and persons continuously selling consignment goods in depots and stores are deemed to be permanent representatives.

a Within the period of holding the position

31 Long Position Holder

- Until the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
- The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such incomes. Double Tax Treaty provisions are reserved³⁸.

32 Short Position Holder

- Until the maturity, any unrealised gain arising from mark-to-marketing is not subject to taxation.
- The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT is the final taxation. No declaration is required for such incomes. Double Tax Treaty provisions are reserved³⁹.

³⁸ The taxation of income over non-cash margin deposited with the clearing & settlement house depends on the nature of margin and income.

³⁹ The taxation of income over non-cash margin deposited with the clearing & settlement house depends on the nature of margin and income.

b Neutralizing position through offsetting order

- 33 **Long Position Holder** - The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such incomes⁴⁰. In case of a loss, it cannot be set off against any other taxable income. Double Tax Treaty provisions are reserved.
- 34 **Short Position Holder** - The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such incomes⁴¹. In case of a loss, it cannot be set off against any other taxable income. Double Tax Treaty provisions are reserved.

c Cash Settlement

- 35 **Long Position Holder** - The contract is terminated within the framework of the provisions of the contract. The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such income.⁴² The loss cannot be set off against any other taxable income. Double Tax Treaty provisions are reserved.
- 36 **Short Position Holder** - The contract is terminated within the framework of the provisions of the contract. The income thus generated is subject to 0% WHT and WHT is the final taxation. No declaration is required for such income⁴³. The loss cannot be set off against any other taxable income. Double Tax Treaty provisions are reserved.

⁴⁰ Investors should present their article of association to the tax office in order to benefit from 0% rate after 2008.

⁴¹ Investors should present their article of association to the tax office in order to benefit from 0% rate after 2008.

⁴² Investors should present their article of association to the tax office in order to benefit from 0% rate after 2008.

⁴³ Investors should present their article of association to the tax office in order to benefit from 0% rate after 2008.

B 2 - Taxation of Non-Resident Corporate Investors operating with a fixed place of business or permanent representative in Turkey⁴⁴

The term "a fixed place of business" refers to, stores, offices, administrative offices, consulting rooms, manufacturing plant, branch offices, depots, hotels, coffee houses, places of entertainment and sports activities, fields, vineyards, gardens, farms, stockyards, weirs and netting areas, mines, quarries, construction sites, and food and sundry stands on ships which are used for the performance of a commercial, industrial, agricultural or professional activities or places which are employed in such activities. The term "Permanent Representative" refers to a real or legal person who is associated with the person being represented by means of a service agreement or power of attorney. Also commercial representatives, merchant agents and officers together with agents established in conformity with Turkish commercial code and persons whose expenses met partially or fully on a continuous basis (except the advertising expenses) by the person represented and persons continuously selling consignment goods in depots and stores are deemed to be permanent representatives.

a Within the period of holding the position

37 Long Position Holder

- The position is to be valued through mark-to-marketing. The income thus generated through mark-to-marketing is to be included into the corporate income and the loss derived from mark-to-marketing is deducted from corporate income.
- The interest accruals on margin deposited with clearing & settlement house is to be included into corporate income. The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT can be offset against income tax calculated over the gain shown in the corporate tax return. No VAT is calculated upon interest accruals. For BITT payers BITT is levied over interest accruals.

38 Short Position Holder

- The position is to be valued through mark-to-marketing. The income thus generated from mark-to-marketing is to be included into the corporate income and the loss derived through mark-to-marketing is deducted from corporate income.
- The interest accruals on margin deposited with clearing & settlement house is to be included into corporate income. The interest accruals on cash deposited as margin with the clearing & settlement house are subject to 15% WHT and WHT can be offset against income tax calculated over the profit shown in the corporate tax return. No VAT is calculated upon interest accruals. For BITT payers BITT is levied over interest accruals.

⁴⁴ Non-resident corporate investors with Turkish transactions that are not limited with those specified in temporary article 67 of the Income Tax Law.

b Neutralizing position through offsetting order

39 Long Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return⁴⁵. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

40 Short Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return⁴⁶. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

⁴⁵ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

⁴⁶ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

c Cash Settlement

41 Long Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return⁴⁷. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

42 Short Position Holder

- The income generated from the positions on and after 01.01.2009 in the foreign exchange, interest and commodity futures contracts is subject to %10 WHT and such income is to be included into the commercial income. WHT can be offset against income tax calculated over the gain shown in the annual tax return⁴⁸. On the other hand, when calculating the WHT base, gains and losses from futures with a security underlying (i.e: interest futures) can be offset against income or loss derived from the underlying security.
- However, the %0 WHT rate continues to be applicable for the income generated from equity-index.
- In case of a loss, it is deducted from the commercial income.
- VAT does not arise due to offsetting the position. For BITT payers BITT is levied 5% over the income thus derived.

⁴⁷ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.

⁴⁸ Income arising from the positions acquired before 2009 but realized in 2009 is subject to 0% WHT.