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Taxation Of Sukuk In Turkey: As An Alternative Financial Product

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Abstract

The markets such as capital markets, financial markets, commodity markets, it creates a domino effect and creates a great impact on the economy. After giving information about the improvement of Islamic finance in Turkey, it describes the kinds of sukuk being implemented in Turkey. As a core study, taxation of sukuk in Turkey and sukuk in Turkish tax system are examined specifically. The objective of this paper is to explain the tax advantages and disadvantages on the products offered by the system to those who want to invest in the alternative finance system or evaluate their savings. In this study, Turkish tax laws were used as the primary source, and the books, theses, articles and conference texts written on this subject were used as the secondary source. This study includes the review of the written works, statistics, documents, laws, practices and works of related international institutions, and open sources of related national institutions. Finally, in this study, recommendations for the necessary regulations for the growth of the Islamic finance sector in Turkey and the results obtained from the study are given.

Keywords: Islamic Financial Products; Sukuk; Taxation of Sukuk, Sukuk in Turkey

INTRODUCTION

Islamic finance has been gradually developed worldwide in the capital market and insurance sector as well as in the banking sector (H. Maulana et al., 2022). It has been developing through the demands of the people who refrain from the main prohibitions such as *riba* (interest), *gharar* (uncertainty) and *maysir* (gambling) according to their beliefs. The players of this sector are supposed to manufacture alternative financial instruments for their potential customers' needs. The needs of the customers can shape both the Islamic finance markets and the capital markets around the world (Patel, 2017). The instruments of IF such as *murabaha*, *musharaka* or sukuk are the most commonly used financial products in the market. All of them are very important for this market place but in particular, sukuk plays a critical role for the people who want to invest their money in the sector which is based on the Islamic rules (Affandi & Astuti, 2013). Sukuk is commonly known as an Islamic certificate. It is used as a financial instrument, which permits investors to share profits from the financed asset or activity (A. Maulana & Zahro, 2021). Furthermore, sukuk has an important role as a trigger of the development in many countries, which need infrastructural investments according to the principles of Islamic finance.

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In Turkey, both private and state agents have increasingly improved Islamic Finance products. Recently, new state-owned participation banks have been established such as Vakıf Participation Bank (window), Ziraat Participation Bank (window) and Emlak Participation Bank (full-fledged). Although the Muslim population of Turkey is 99.8%, participation banks have only 6.5 % share in the banking sector. In Turkey, this sector has created new necessities in tax system. Because in this system, money is not sold or purchased like a commodity. Since commodity passes from a provider to customer and each transfer causes a tax such as stamp duty, expenditure tax etc. Therefore, it brings with it a necessity for the legislation regarding the Islamic finance instruments and taxes on them.

LITERATURE REVIEW

Islamic Financial Products

The principles of Islamic finance are based on the Sharia, which can also be named as the Islamic law. According to this law; the presence of *riba, maysir* and *gharar* in any business transaction or contract is completely prohibited. In the Qur'an, the prohibition of riba is mentioned several times, such as Surah Al-Baqarah, Surah Al-i Imran, Surah Al-Nisa and Surah Ar-Room. Islam has also banned *maysir* (*qimar* or gambling). In Surah Al-Maide, *qimar* and gambling are clearly prohibited in the Qur'an.

Islamic financial products are different from their counterparts' products from this standpoint (Affandi & Khanifa, 2022). For example, Islamic Financial products are equity related. In the society, people need some investment or saving financial instruments. In Islamic finance market, institutions, which are working according to Sharia rules, have created products to meet needs of their clients. They avoid forbidden products and services for example alcohol beverages, entertainment sector and pork etc. These products, which have been created by IFIs are based on the concept of a social order of brotherhood and solidarity. The business venture transactions are made according to partnership and both risk and profit sharing. The participants in financial dealings are considered commercial partners. Islamic financial products are both equity-oriented and based on a variety of methods of profit and loss sharing. Islamic finance does not include speculative investments such as margin trading and derivative trade; they include only actual transactions with underlying properties. To sum up briefly, the basic rules of Islamic Finance are to avoid speculation- moral hazard and do not pay or take riba(Seibel & Imady, 2006).

SUKUK

Definition of Sukuk

Over the course of forty years, the Islamic financial sector has gradually developed and its financial products began to replace the products of traditional banking. One of the most used products of them are sukuk that meet the needs of alternative finance customers. Sukuk originated as Islamic securities and originally considered as an Islamic alternative to traditional "bonds". Sukuk issuance is becoming widespread in both Muslim and non-Muslim countries around the world. Its development has attracted the attention of Islamic

and conventional issuers and investors alike. In reality, it has the potential to become an indispensable tool relevant to the whole of humanity (Keshminder et al., 2019). Sukuk can further expand the boundaries of the Islamic capital market beyond Muslim majority countries, contributing to the real economies of both developing and developed nations by directing investments in key sectors and in sustainable and responsible development initiatives(ISRA, 2017).

Definition of sukuk can be examined from different angels such as linguistic, *fiqh* and Islamic capital markets and Islamic finance (Sunil & Momany, 2020). Sukuk is the plural of the Arabic word "*sakk*", it means "certificate" or "order of payment". Sukuk are known as devices of the Islamic capital marketplaces. In Islamic finance, sukuk refer to Islamic securities with quite distinctive structures. It is a modern financial product, developed from European style securitization, in the form of a package. It contains almost all of the Islamic certificates produced independently of each other in the past (Bayındır, 2007).

From a *fiqh* perspective, one of the original definition of sukuk was given by the International Islamic Fiqh Academy (IIFA) dealt with the matter in 1988. This determination was on investment certificates and more precisely on *muqarada* bonds (also famous as *mudaraba* sukuk), which is a precise form of sukuk. IIFA defined it such as follows: "…investment instruments which allocate the [*muqarada*] capital ([*mudaraba*]) by floating certificates, as an evidence of capital ownership, on the basis of shares of equal value, registered in the name of the owner, as joint owners of shares in the venture capital or whatever shape it may take, in proportion to (…) each one's share therein." (IIFA, 2000).

Bahrain based International standard setter body AAOIFI provides a definition of sukuk such as follows:

"Investment sukuk are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or (in the ownership of) the assets of particular projects or special investment activity, however, this is true after receipt of the value of the sukuk, the closing of subscription and the employment of funds received for the purpose for which the sukuk were issued. "(AAOIFI, 2000).

As seen from the definitions, there are three pillars for Sukuk to be considered in obedience with Islamic law. The primary, the certificates must symbolise possession in concrete properties, usufructs, or services. The subsequent is payments to the depositor derived from after-tax profits and the last is the price paid back at maturity should follow the recent market price of the original asset and not the original invested amount (Peng et al., 2022).

Types of Sukuk

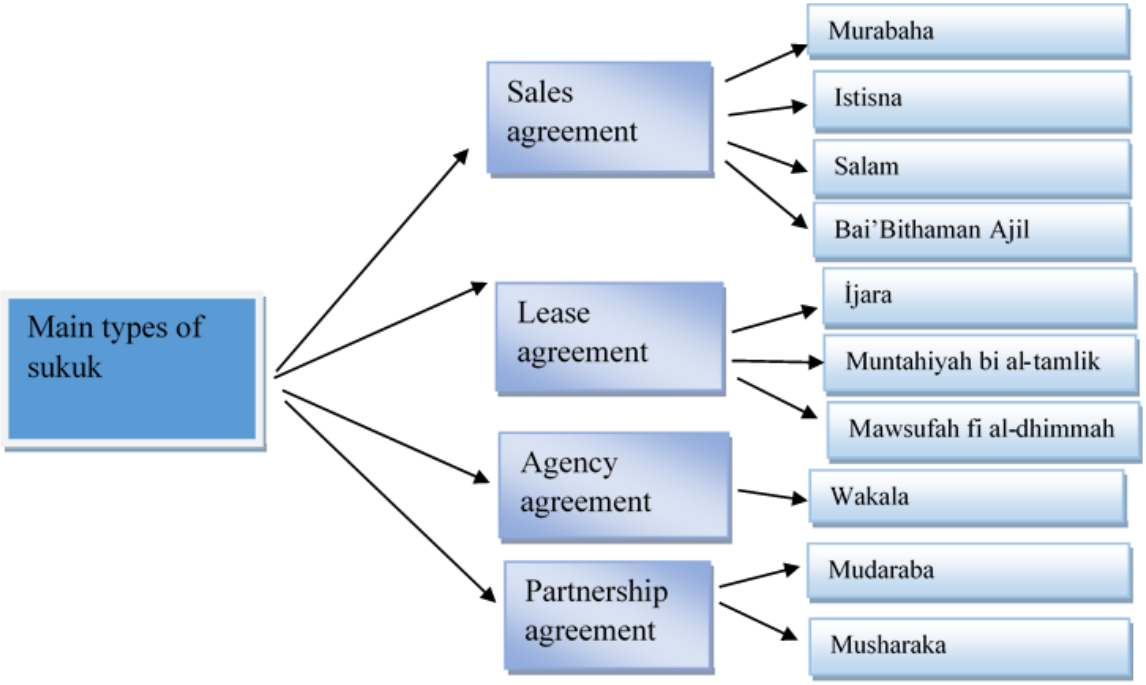
In the Islamic Capital Market, there are different kinds of the sukuk. Some of them are *Ijara* Sukuk, *Mudaraba* Sukuk, *Musharaka* Sukuk, *Istısna* Sukuk, *Murabaha* Sukuk and Hybrid model of the Sukuk (Sidlo, 2017).

The principal categories of sukuk contain sale-based sukuk, leased-based sukuk, partnership-based sukuk and agency-based sukuk. Sale-based sukuk are deferred payment sale or *Bai'Bithaman Ajil* (BBA), *Murabaha*, *Salam* and *Istisna* sukuk (Raeni et al., 2022).

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Leased-based sukuk are *Ijara, Ijara muntahiyah bi al-tamlik, Ijara mawsufah fi al-dhimmah*. Partnership-based sukuk are *Mudaraba* and *Musharaka*. Agency-based sukuk is *Wakala bi al-istithmar*.

Figure 2: Main Types of Sukuk



Source: (Manap A. 2015)

Development of Sukuk

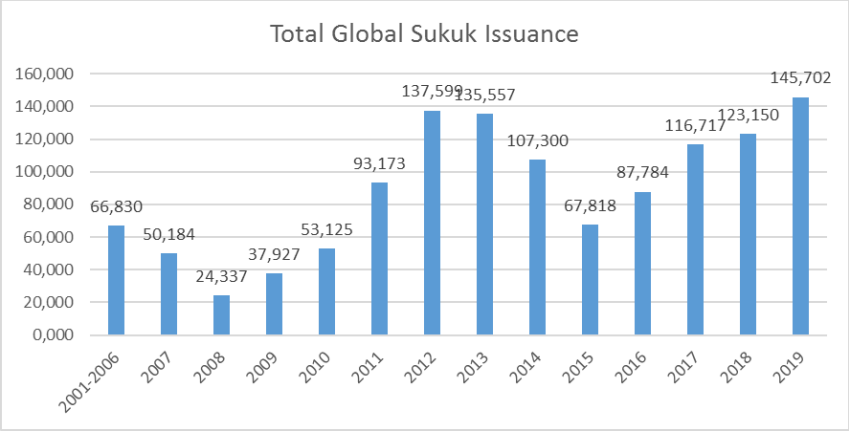
In 1990, the first Sukuk that was foreign owned was issued in Malaysia by Shell MDS, with a value of RM 125 million (equivalent to $30 million), based on the principle of Bai' *Bithaman Ajil* (Alam, 2021). It was non-Islamic corporation. In 2000, 77 million Sudanese Pound (SDG) domestic sovereign short-term Government *Musharaka* Certificates (GMC's) were issued by the Sudanese Government. In 2001, the Sukuk market went international with the issuance of the first United States Dollar (USD) denominated international sovereign Sukuk Al Ijarah of $100 million (5-year tenor), and a series of domestic sovereign short-term (less than 1-year tenor) (MUNIR et al., 2020). Salam sukuk issued by the Central Bank of Bahrain on behalf of the Government of Bahrain in 2001. In the same year, the first 5 years international corporate *Ijara* Sukuk of $150 million were issued by a Malaysian corporate Kumpulan Guthrie Berhad or Guthrie Group Limited. After that, many sovereign and corporate Sukuk issues (domestic and international) have been offered in various jurisdictions such as the United Arab Emirates (UAE), Saudi Arabia, Indonesia, Qatar, Pakistan, Brunei Darussalam, Singapore, Kuwait etc. Since then, the Sukuk market emerged as one of the main sections of the IFSI and a lot of innovation took place in its structures such as *Ijarah, Musharaka, Mudaraba*, Hybrid, Exchangeable and Convertible(COMCEC, 2018; ISRA, 2017; Khiyar & Galfy, 2014).

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Global Sukuk Issuance

Whole global sukuk issuance reached $123,15 billion in 2018. The issuance size during 2018 was principally due to sovereign sukuk issuances from Asia, GCC, Africa and certain other jurisdictions while Malaysia carry on to control the sukuk market through share of countries like Indonesia, United Arab Emirates, Saudi Arabia and to some extent from Turkey augmented as well(IIFM, 2019).

Figure 1: Total Global Sukuk Issuance in the World



Source: (IIFM, 2019; 2020)

DISCUSSION

Sukuk Issuance in Turkey

In Turkey, first Sukuk regulation introduced by Communique No: III/43 (*Ijara* Sukuk) by Capital Markets Board (CMB) in 2010. When the first Sukuk regulation was came into force in 2010, it was intended essentially to enable interest-free financing and investment in the form of a leasing (*Ijara*) transaction. After that, tax inequalities on Ijara Sukuk compared to conventional finance products were solved in 2011 by 6111 numbered Law. Finally, Sukuk regulations currently in force have been published under the Capital Market Law (CML) in 2012. Since to ensure Sukuk issues more accessible in Turkey, tax and fee exemptions were extended with a legal amendment to cover all lease certificates in 2016(IIFM, 2019).

Thanks to effective, reliable and flexible regulatory amendments, the volume of Sukuk issues has reached important levels. After the tax exemptions and the discount on the CMB registration fees, some advances have been recognized in the lease certificate (Sukuk) issuances through the private sector ever since 2017. In that perspective, table 2 shows this development movement at Turkey's Sukuk market (IIFM, 2019).

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Table 1: Corporate Sukuk Issuances (2014-2019)

USD Million	2014	2015	2016	2017	2018	2019
Lease Certificates (LC)	2074	1250	973	2210	4717	7758
Debt Securities (DS)	50482	37706	33019	43311	34551	51494
LC/DS (%)	4.11	3.31	2.95	5.10	13.29	15.06

Source: (IIFM, 2020)

In terms of issuances by years, as illustrated in table 2, the ratio of lease certificates to conventional debt securities has considerably rose in the last three years and reached to record high level (15.06 %) in 2019 (IIFM, 2020).

Table 2: Overall Sukuk Issuances by the Private Sector (2014-2019)

Overall Sukuk Issuances	2014	2015	2016	2017	2018	2019
Number of Issuances	21	40	34	66	164	207
Sum of Issuances (USD, million)	2 075	1 251	974	2 211	4 717	7 759

Source: (IIFM, 2020).

Acording to AAOIFI, main types of sukuk are as follows: Sukuk of ownership in leased assets, Salam sukuk, Istisna sukuk, Murabaha sukuk, Musharaka sukuk, Muzaraah (share-cropping) sukuk, Musaqah (projects involving irrigation of fruit-bearing trees) sukuk, Mugharasah (projects involving plantation of gardens) sukuk (AAOIFI, 2003).

Legislation Of Sukuk Taxation In Turkey

Participation banking assets in Turkey have been doubled within a decade. To encourage the sector's improvement, new regulations have been made, and new participation banking has been established. Currently Turkey's participation finance sector is quite smaller than conventional finance sector. The sector represented 5.8% of banking assets by the end of September 2019(Moody's, 2020). Three new state-owned participation banks have been founded between 2015 and 2020, to ensure the widening access and growing competition in the financial sector. Besides, a state-funded $2.6 billion Istanbul International Financial Centre (IIFC) in Istanbul has been planned to be opened in 2023 will be a crucial support for the growth of the sector. According to eleventh development plan which covers 2019-2023 years (TBMM, 2019), Istanbul will become a global centre of finance, and it is particularly important to realise this objective for the development of Islamic finance.

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Participation banking is also being promoted through evolution of by-laws and administration. Borsa Istanbul, Turkey's stock market operator, launched trading in sukuk in August 2018, deepening the country's Islamic capital market actions. The Participation Banks Association of Turkey (PBAT), which groups participation banks working in Turkey, set up a Central Advisory Board (CAB) in 2018 to make certain standardization of participation banking products and association with international participation banking. PBAT aims a participation banking penetration of 15% by 2025(TKBB, 2015). Further momentum can be gained with plans to equalize tax treatment for equivalent financial activities of commercial and participation financial institutions (Moody's, 2020).

Table 3: Milestones of Developments of Islamic Finance in Turkey

1983
•Establishment of Special Finance Houses (SFHs)
1999
•SFHs became subject to the same umbrella of regulations with conventional banks
2005
•SFHs were transformed to Participation Banks (PBs) with Banking Law 5411.
2009
•The firs Takaful Company was established.
2010
•Lease Certificate (Sukuk) Communique was anacted •The first private Sukuk issuance
2011
•Introducing of Islamic Index (Participation Index) in Istanbul Stock Exchange (BIST •The first Islamic private pension company was established.
2012
•Law on Regulating Public Finance and Debt Management was amended to enable the Turkish Treasury to issue Sukuk •The sukuk-related items was included into the new Capital Markets Law.
2015
•Ziraat Participation Bank (State-owned) was established. •Interest-free Finance Coordination Board was lounched.
2016
•Vakif Participation (State-owned) was established.
2017
•Regulation on working principles and procedures of Participation Insurance was issued in Official Gazetta •Gold indexed Ijara Sukuk started to be issued.
2018
•Central Shariah Advisory Board was introduced as affiliated to PBAT.
2019
•Emlak Participation Bank (state-owned) was established. •Public Oversight Accounting and Auditing Standart Authority issued 1 ethic norm and 6 interest-free auditing standarts based on AAOIFI standarts. •The relevant article in Public Finance and Debt Management Law, which forms the legal basis for the Turkish Treasury's Sukuk issuance, was amended to enhance the general framework of Sukuk structure.

Source: (COMCEC, 2020).

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Taxation Of Sukuk In Turkey

Definition of tax is "A compulsory contribution to state revenue, levied by the government on workers' income and business profits, or added to the cost of some goods, services, and transactions" (Simpson & Weiner, 1993). It is necessary for the sukuk industry that a legislation must be put into place about taxation on incomes of the sukuk. There are many transfers of the assets in Islamic finance industry since it is vitally different from the conventional banking system that is transferring ownership of the commodity instead of money (Khiyar & Galfy, 2014). Thus, the taxes are borne by owner of the commodity for each transfer. In all transactions, ownership of the commodity always requires additional tax duties that inevitably causes additional costs. As an example, ijara sukuk which is the most used product in Turkey's Islamic finance sector (A. Maulana & Zahro, 2021). In this type of ijara sukuk structure, premier transfer of asset ownership requires paying taxes, such as sales tax, value-added tax, holding tax or stamp tax. When the transferring of the ownership of the assets, the duty of the taxes occurs, each transfer includes additional tax costs. However, in conventional bonds, there is no requirement for a transfer of ownership from one side to another at a time (Kadiri, 2021). Hence, there is no necessity of the additional tax costs when the transferring of the ownership occurs (Irina & Anna, 2020). For transferring those disadvantages to advantages in Islamic Finance Market in Turkey, Turkish Government has put into place several laws about implementation and taxation of the sukuk.

The lawful origin of Sukuk as a financial tool, a free of interest-financing model has been fixed with the Communiqué Series III No: 43 on "Lease Certificates and Asset Lease Companies" in April 2010, in which *ijara* sukuk has been accepted. After the acceptance of tax exemptions for the issuance of Sukuk, the primary Sukuk was issued by Kuveyt Turk Participation Bank in Turkey in 2011. In 2013, the Communique Series III No: 61 on Lease Certificates having abolished the Communique Series III No: 43 and in which the new kinds of lease certificates have been put into force. The Communique on Lease Certificate (III-61.1) has regulated five kinds of lease certificates, which have been grounded four attritionary sukuk structures in addition to ijara sukuk (ownership sukuk). These new models are: (i) management (*musharakah* sukuk), (ii) trading (*murabaha* sukuk), (iii) partnership (*mudaraba* sukuk), (iv) engineering, procurement and construction (EPC) (*istisna* sukuk).

Income Tax

Income tax is defined as a tax imposed on income generated by businesses and individuals within their authorities. In Turkey, taxation structure consists of two main income taxes. They are (i) personal income tax and (ii) corporate income tax. Unlike a company that is subject to corporate income tax on its income and earnings, an individual is subject to personal income tax on their income and earnings The procedures of taxation for individual income and earnings are provided in the Personal Income Tax (PIT) Law in 1960. The procedures of the taxation of corporations are contained in the Corporate Income Tax (CIT) Law in 1949 (a new version of the CIT Law put into force in 2006). Nonetheless, each is

ruled by a different regulation, many procedures and requirements of the PIT Law are also applied to corporates, such as income elements and determination of net income. An individual's income may consist of one or more income elements listed below: Business profits, Agricultural profits, Salaries and wages, Incomes from independent personal services, Incomes from immovable property and rights (rental income), Incomes from capital investment, Other incomes and earnings without considering the source of income.

These incomes are taxed as a Personal Income Tax. The important legislation for changes in accordance with the sukuk instrument was made by Law No:6111 in 2011, which includes addition of several tax laws, such as law of income tax, law of corporate tax, law of value-added tax and law of stamp tax. According to 6111 number Law, it was added on the Personal Income Tax, Number 75/5, "lease certificates" which represents the sukuk instrument in the Islamic capital market. After this arrangement of the legislation, lease certificates were placed in the Personal Income Tax as an earning on movable assets and that has been considered as a taxable income.

In the Personal Income Tax, there is also a withholding tax (deduction at the source tax), it is implemented according to provisional 67th article. Its rates are determined by 2020/2569 Presidential Decision on 23.05.2020. According to this regulation, withholding tax rates from personal income are; "0% for earnings from gold-based government debt securities issued by the Ministry of Treasury and Finance and gold-based lease certificates issued by asset leasing companies established in accordance with Law No. 4749 on Regulation of Public Finance and Debt Management, 15% of the revenues obtained from financing bonds approved by the Capital Markets Board in accordance with Law No. 6362 and from lease certificates with a term of less than one year issued by asset leasing companies, and from their disposal, 15% for earnings arising from the disposal of financing bills approved by the Capital Markets Board and lease certificates with a maturity less than one year issued by asset leasing companies in accordance with Law No. 6362, 10% for other earnings," (Turkish Presidency Degree, No: 2569, 2020)

On the other hand, lease certificates issued abroad by full taxpayer lease companies are taxed on; Incomes in which maturity date until 1 year is 7%, Incomes in which maturity date from 1 year to 3 years is 3%, Incomes in which maturity date 3 years or more is 0%, Those in which are the outside from above is 10%. Deductions are made by related authorities which are counted in law. There is no withholding tax on revenues obtained from the lease certificates issued by the Undersecretaries of Treasury Asset Leasing Company abroad.

These rates are about taxation of securities income from lease certificates. But there is another tax subject which is gained from appreciations. For example, a lease certificate is purchased by a person for $100 and after some time (such as six months) he sold it to another person for $110. He gained $10 from the security. This amount is subject to value increment tax. In Turkish tax legislation, the deduction rate to be applied for full and narrow taxpayers is 15% in earnings from purchases and sales in domestic issues. No deductions are made for the earnings obtained from buying and selling of the lease certificates issued abroad for full and narrow taxpayers. In some jurisdictions such as Malaysia there is no withholding tax for full and narrow taxpayers. However, in Turkey,

full and narrow taxpayers and foundations subject are subject to 15 % withholding tax from sukuk income. For this reason withholding tax rates in Turkey should be re-adjusted to a level that can be competitive in the global sukuk market (Ulusoy & Ela, 2018). These rates are deducted at the source by Capital companies and similar foreign companies, Cooperatives, Public enterprises, Enterprises owned by foundations, societies and associations and Joint ventures and the gains of the sukuk owners and transferred to Ministry of Finance and Treasury.

In terms of income tax law of sukuk income, there is no difference between income of Islamic finance product as a lease certificate and conventional product as a bond. Both are subject to same rate of income tax according to legislations. Turkish Government has provided an equal competition field in capital market for both industries in terms of income taxation. As shown, the financial profit or loss is treated the equal as interest based on conventional borrowing. Hence, the income tax law needs revising according to main purpose of the arrangement is the raising or debt finance provision.

Corporate Tax

The corporate tax is implemented on the income and earnings derived by corporations and corporate bodies. It is a tax type calculated according to the net corporate income earned by taxpayers during a calendar year. The income elements by the Corporate Income Tax (CIT) Law are the same as the Personal Income Tax (PIT) Law. Corporations and corporate bodies specified by the Law as taxpayers are follows: Capital companies and similar foreign companies, Cooperatives, Public enterprises, Enterprises owned by foundations societies and associations, Joint ventures(Ministry of Finance Turkey, 2016).

Whether the institution benefiting from the income obtained through the issuance of the lease certificate in the country is a full taxpayer or a limited taxpayer capital company, there is no deduction from the earnings. However, in full taxpayer income is declared by including it in corporate income, while in narrow taxpayer deduction, it is not declared because it is the final tax. The Corporation tax rate is 10% for incomes from lease certificates. This amount of tax is deducted by financial institutions and transferred to treasury account as a tax responsible.

The withholding rate (deduction) is based on both the periodic returns and the redemption income of the lease certificates, it has been determined as 0% for the institutions listed in CIT Art.2 / (1), without making a distinction between full and limited taxpayers with the Decree Law No. 2010/926. The institutions other than those listed in CIT art.2 / (1), the withholding rate will be applied as 10% (E. Aydın, 2015).

The deduction rate of earnings from the purchase and sale of lease certificates issued by full taxpayer capital companies is 0%. Lease certificates issued abroad by full taxpayer lease companies are taxed on; Incomes in which maturity date until 1 year is 7%. Incomes in which maturity date from 1 year to 3 years is 3%, Incomes in which maturity date 3 years or more is 0%, Those in which are the outside from above is 10%". Deductions are made by related authorities which are counted in law. But there are also exemptions in the tax law no:5520.

The title of the 5th Article of the tax law is "Exemptions": "The following benefits are exempt from corporate income tax. 50% of the gains on the sale of immovable assets, in the assets for the same period as the 75% of the gains arising from the sale of the founders' shares, beneficial shares and priority rights owned by the institutions for the same period as the subsidiary shares in their assets for at least two full years. Under the law no:6361, Law of Financial leasing, Factoring and Financing Companies, gains derived from the sale of financial leasing companies, participation banks and development and investment banks by the corporations and the gains arising from the transfer of the said assets to the institution of acquisition by the end of the lease period, provided that all movable and immovable properties are taken back to the lease and back at the end of the contract. Gains arising from the sale of assets and rights to asset leasing companies on the condition of the issuance of lease certificates by the source institutions and the return of such assets to the institution from which the assets were acquired by the asset leasing companies."

Within the meaning of this law no:5520, article 5/e, j, k; The title of the 5 is exemptions from the corporate income tax. The lawmaker counted individually all the exemptions in the Corporate Income Tax Law. We will mention several exemptions about lease certificates. 50% of the gains of institutions on the sale of immovable assets in their assets for at least two full years, 75% of the gains arising from the sale of the founders' shares, beneficial shares and priority rights owned by the institutions for the same period as the subsidiary shares in their assets for at least two full years. Moreover, in 2011, 6111 numbered law: "Law on restructuring of some receivables and amendments to social insurance and general health insurance law and some other laws and decree laws" was published. It was added with the amendment in this article that; "for the sale of immovable assets to Asset Leasing Companies (ALC) for the purpose of issuing lease certificates by the source institutions and the earnings arising from the sale of these assets to the source institution where the immovable is taken over by the Asset Leasing Companies, this rate is applied as 100% and there is no requirement for them to be active for at least two full years."

According to this amendment no restrictions have been applied on the tax rate and the number of years. Exemption has been extended by the lawmaker regarding the lease certificates. But it is not sufficient for sukuk in the Turkish tax legislation. The amendment includes only immovable properties, but assets to be purchased and rented by the asset leasing companies include all kind of assets, real estate and intangible assets. New amendments should be made regarding this issue. As stated by Ulusoy & Ela (Ulusoy & Ela, 2018) that amendments should cover all assets including immovable and intangibles. Arrangements for all securities bought and sold by the asset leasing companies should be made and their tax principles should be published. Otherwise, development of the Islamic finance products in Turkey will be impossible. Regulations made in a narrow framework on this subject will prevent development. Another issue is that as stated by some researchers (Aslan, 2012) the communique and tax regulations are new. Accordingly, issues according to these rules have not been realized yet in the market, and implementations are not yet known clearly.

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Value-Added Tax

A value-added tax (VAT) is a consumption tax placed on a product whenever value is added at each stage of the supply chain, from production to the point of sale. In Turkey, the Value Added Tax Act came into force on January 1, 1985. The Turkish tax system leverages value added tax on the supply and import of goods and services. Liability for VAT arises; When person or organization in Turkey, commercial, industrial, agricultural or independent professional engages in activities, When goods or services are imported into Turkey.

VAT is applied at each stage of the production and distribution process. However, responsibility for the tax levies on the person who supplies or imports goods or services, the real VAT loading is on the last consumer. There are many exemptions from taxing in the VAT law. We will mention about lease certificate exemptions from the VAT.

Within the meaning of this law no:3065, 17/4-(g); Transactions (transfer/delivery of ownership/usufruct with each other of the owners or lessors) in stock market which are founded according to Capital Market Law in Turkey, the stock market delivery and exchange of shares between exchange members, foreign currency, money, stamp, valuable papers, stock, bonds, lease certificates issued by Asset Leasing Companies are exempt from VAT.

17/4-(u) article; "Transfer all of the assets and rights by asset leasing companies and transfer of the assets and rights to the leased company by transferring the assets and rights to the asset leasing companies for the purpose of issuing the lease certificate and for the issuance of the lease certificate at the end of the contract period."

"In the context of an exception, value added tax that is imposed on the acquisition of the assets and rights transferred to the asset leasing companies and which cannot be eliminated by the discount until the period of the transfer is considered as expense in the determination of the income or corporate tax base for the period in which the transfer was made. With in the meaning of this law no:3065, 17/4-(u); Transfer all of the assets and rights by asset leasing companies, Transfer of the assets and rights to the leased company by transferring the assets and rights to the asset leasing companies for the purpose of issuing the lease certificate and for the issuance of the lease certificate at the end of the contract period

Those transfers are not subject to VAT, so those are exemption from the VAT. 17/4-(y) article; "Within the scope of the Law on Financial Leasing, Factoring and Financing Companies dated 21/11/2012 and numbered 6361; leasing and transfer of the movable and immovable to the lessor and transfer to the lessor on condition that the leasing companies, participation banks and the development and investment banks shall be transferred to the lessee at the end of the contract period and the ownership of the asset subject to the lease shall be transferred to the lessee at the end of the contract.

"In the scope of the exemption, value added tax that is charged to the financial leasing companies, participation banks and all movable and immovable properties transferred to the development and investment banks and which cannot be resolved by

discount until the period of the transfer is considered as expense in the determination of income or corporate tax base for the accounting period in which the transfer was made."

With in the meaning of this law no:3065, 17/4-(y); Under the Law on Financial Leasing, Factoring and Financing Companies, leasing and transfer of the movable and immovable assets, from lessor to lessee and at the end of the contract from lessee to lessor by Leasing Companies, Participation Banks and the Development and Investment Banks, are exemption from the VAT. As a summary, the exemptions from the VAT; the sale of the asset by Originator to ALC; the leasing of the asset by ALC to Originator; the delivery of the leasing certificates by ALC; the sale-back of the asset by ALC to Originator.

In terms of Value-Added tax of lease certificates; exemptions were introduced to asset leasing companies that issued lease certificates during the transfer of securities, real estate and intangible assets, and the lease certificates issued by asset leasing companies. This legislation is important to reduce the tax burden on the customer due to various transfers in Islamic financial transactions. With these regulations, the Turkish government aimed to enable both Islamic and conventional institutions to compete in an equal area. Thus, Islamic finance, which will become disadvantageous with tax burden due to many transfers, has been freed from these legislations on VAT.

Stamp Tax

Stamp tax applies to various documents, contracts, agreements, notes payable, letters of credit and letters of guarantee, financial statements, and payrolls. According to tax law; "the taxpayers of the Stamp Tax are those who sign the papers. People pay the Stamp Duty of the papers for transactions between government agencies and individuals". Stamp tax is implemented according to the kind of documents at different tax rates or lump sum quantity listed in Annex I of the Stamp Tax Law.

The sukuk (lease certificates) exemption from the stamp tax is placed II. table which is with addition of Law. The title of the 41. article of the II. table is "Papers which are exempted from stamp duty" It states that:

"Transfer of all kinds of assets and rights that constitute the basis for the issuance of lease certificate, purchase, sale, renting, proxy management, lease certificate issuance for the purpose of issuing a joint venture, a business or a job as the owner of the work and the rental or sale of the work arranged paper and certificates issued for all kinds of guarantees and guarantees relating to lease certificates." With in the meaning of this law no:488, Table II/41; a) Movable, immovable, and intangible assets that transfers to Asset Leasing Company, b) Those which are related assets transfers from ALC to originator company, as a purchase, sale, renting, proxy management, lease certificate issuance for the purpose of issuing a joint venture, a business, or a job as the owner of the work, c) The rental or sale of the work arranged paper and certificates issued for all kinds of guarantees and guarantees relating to lease certificates.

Transactions on papers and certificates which are mentioned above are exempted from stamp duty. According to Turkish stamp tax legislations, the papers are divided into four main groups which are subject to stamp duty. The four main groups are papers on contracts, decisions, and certificate (protocols), papers used in commercial transactions and

receipt (bill) and other papers. Those papers which are transacted between sides are subject to tax. In lease certificate transactions, the lease certificate is based on the contract between the financial institution and the client who invests money in financial products. Therefore, the certificate is subject to tax. However, the lease certificates are exempt from this tax with regulations made by the legislature. This amendment was made by 6111 number Law in 2011. In the same law.

"Dividends and interest vouchers for stocks and all kinds of bonds" are also exempt from stamp duty. Moreover, "Purchase and sale contracts and real estate sales promises contracts exclusively for real estate portfolios of real estate investment trusts and real estate investment funds" are exempt from this tax. Accordingly, the lawmaker aimed to make égalité for both Islamic and conventional finance systems. Nor Islamic finance is made advantageous by legislator, or vice versa.

Property Tax

The subjects of property tax are real estate and land property which are determined by Property Tax Law. Property taxes are calculated once a year and collected from tax responsible by related municipality. The taxpayer is the owner of the real estate or land. It is paid yearly to local municipalities in two equal instalments in May and November. In the tax law, there are several exemptions from Property Tax, such as consulate building, buildings belonging to foundations established to strengthen the Turkish Armed Forces, religious services and public worship places, Special budget administrations, special provincial administrations, municipalities, village legal entity, universities established by law and state buildings etc. However, there is exemption about sukuk (lease certificates) in the Property Tax Law.

The title of Property Tax Law's article 4 is "Exemptions and Exceptions." According to fourth article of the Law, "The buildings listed below are exempt from the building tax provided that they are not rented. (a), (b), (s), (y), (z) clauses are not required for rent." (z) "Buildings subject to the issuance of lease certificates under Article 7 / A of the Law No. 4749 of 28/3/2002 on the Regulation of Public Finance and Debt Management."

With in the meaning of this law no:1319, 4/z article: Even if they are rented, the buildings which are subject to lease certificate issuance are exempted from the Property Tax. The transfer of the ownership of property is necessary for lease certificate according to Sharia Compliance. However, it causes tax burden for people who prefer the Islamic finance products. In order to lift this excess tax burden, the legislator made regulations and provided both systems equally competitive field.

Expenditure Tax

The Expenditure Tax Law consists of the three main parts which are Banking and Insurance Transaction Tax, Special Communication Tax and Tax on Games of Chance.

The subject matter of Banking and Insurance Transaction Tax is transactions and services performed by banks, bankers, and insurance companies. Hence, taxpayers are banks, bankers, and insurance companies as a tax responsible. Although there are lots of

transactions in the banking and insurance sector which are subject on Banking and Insurance Transaction Tax (BITT), there are some exemptions from this tax. One of them is sukuk's incomes. According to Expenditure Tax Law 29/c article;
"Interest income on interest, dividend and bonuses of interest and dividends issued by the Central Bank and liquidity bonds issued by the Central Bank which are exempted from all kinds of taxes by special laws and rent income from lease certificates issued by asset leasing companies established in accordance with Article 7 / A of the Law on Public Finance and Debt Management dated 28/3/2002 and numbered 4749, and funds received at the end of maturity."

With in the meaning of this law no: 6802, 29/c article; It is exempted from the BITT that are following, a) rent incomes on lease certificates which are issued by Asset Leasing Companies established in accordance with Article 7 / A of the Law on Public Finance and Debt Management, b) funds received at the end of maturity, are exempt from Banking and Insurance Transaction Tax.

As can be seen from the article of the law; only rent income and funds received at the end of the maturity issued by established in accordance with Article 7 / A of the Law on Public Finance and Debt Management (Treasury, Central Bank) are exempt from this tax. "Lease certificates which issued by asset lease company to money received in return for purchase or sale commitment and acquisition or disposal or bonds which issued through Turkish Lira in country are subject %1 Banking and Insurance Transaction Tax. 1% over the money received in favour of the bonds issued by the Turkish Lira and the lease certificates issued by the asset leasing companies without waiting for the maturity date"

According to this amendment, lease certificates which are issued by special financial establishment (out of the Treasury) are subject to this tax (Khan et al., 2022). Furthermore, if beneficiary of the lease certificate which issued by asset leasing company sell the lease certificate, it would have born tax on received money by beneficiary. Here, the lawmaker encourages the use of lease certificates by imposing taxes if the lease certificates are sold before their maturity dates. The private sector should take advantage of tax exemption for the issuance of lease certificates, such as the Undersecretaries of Treasury Asset Leasing Company for its growth in Turkey.

Fees Tax

Another of taxes levied on goods and services is fees. In Turkish taxation system, there are different types of fees, such as, Permit of License and Certificate Fees, Traffic Fees, Judgment Fees, Notary Fees, Tax Judgment Fees, Consulate Fees, Ship and Harbour Fees, Passport, Visa and Ministry of Foreign Affairs Certification Fees. These fees are implemented at different rates or fixed price by government according to law's ratios. However, there are several exemptions from Fees Tax Law.

According to Fees Tax of Turkey law article 123, "All kinds of assets and rights that constitute the basis of the issuance of lease certificate; transfer, purchase, sale, leasing, proxy management, lease certificate issuance for the purpose of a joint venture, a business or a job as a business owner to do the job and the rental or sale of this work and all kinds of collateral, mortgage and so on transactions are exempt from the fees set forth in this

Law" With in the meaning of this law no: 492, 123 article; There are exemptions from those transactions/fees tax: a) Transactions of movable, immovable, and intangible assets that transfers to Asset Leasing Company, b) For those assets that transfers from Asset Leasing Company to originator, c) The mortgage transactions performed in these stages

The paragraph 15 of the Law numbered 4749 states that the lease certificates issued by Undersecretariat of Treasury Asset Leasing Company (HMVKŞ) and the transactions and papers related to the issuance of lease certificates are excluded from the fees."Within the framework of the regulations of the Capital Markets Board, in addition to ownership-based lease certificates, transactions regarding the management contract, trading including futures trading, partnership, different types of lease certificates based on work contracts and all kinds of guarantees, mortgages and similar transactions made in connection with these transactions are exempt from fees."

With this legislation, a significant privilege was granted to the lease certificates. Because lease certificates contain assets and rights that are transferred through each purchase and cause multi taxing, such as fees tax. Through this arrangement, tax burden borne from extra transfers is prevented. It is especially important as it ensures that the lease certificate is preferred by the investor in Financial Market (COMCEC, 2018).

CONCLUSION

It is impossible to ignore costs in financial transactions as well as in all economic activities. Costs are always in the centre whatever we are doing. For instance, people who are at shopping, firstly they look at the price of the item that consists of the costs of the manufacture, value of the brand and taxes on it. In Islamic Finance, all transactions involve several deliveries, so they cause additional delivery taxes compared to traditional financial regulations. The financing method based on using an asset that makes Islamic finance transactions different from conventional methods. The special structure that requires Sharia compatibility is disadvantageous across the traditional finance. Because of the tax burden on the IFI's transactions, the impact of taxation is negative. No one prefers to pay additional multiple taxation due to her preference. Some countries have taken effective step such as changing their tax laws to ensure tax neutrality for instance the UK, Malaysia, and Luxembourg.

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