

# Taxation Of Notice Pay Paid Under Mutual Termination Agreement

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## TAXATION OF NOTICE PAY PAID UNDER MUTUAL TERMINATION AGREEMENT

In principle, notice pay is not tax-exempt and is subject to income tax. Accordingly, Article 7 of 7103 numbered Law[1] which entered into force on 27/03/2018 indicates that *“after the termination of the employment contract; payments and benefits made under various names, such as compensations paid under the mutual termination agreement, compensation for loss of work, termination compensation, job security compensation”* are considered fees. Therefore, notice pay paid under the mutual termination agreement shall also be subject to income tax. However, different decisions were made by the Regional Administrative Courts in the legal nature and therefore taxation of the notice pay paid to the employee whose employment contract was terminated by reaching a mutual agreement (mutual termination agreement) with the employer before the date 27/03/2018. In some decisions, it was stated that the notice pay is a fee and therefore it is subject to income tax, while in some decisions stated that it is a penalty clause incurred by failure to comply with the notification requirement in the employment contract and it is not subject to income tax. Thereupon, on the Request to Resolve the Discrepancy Between the Decisions of the Regional Administrative Courts, Council of State General Assembly of Tax Courts **has decided that the notice payment paid under the mutual termination agreement signed before the date 27/03/2018 is also a fee and it is subject to income tax.**

[1] Law On Amendments to Tax Laws and Certain Laws and Statutory Decrees