

Debts Related to Purchase of Drugs and Medical Devices will be Covered by the Ministry of Finance

Medical device and pharmaceutical companies could not get payments for products they sold to public university hospitals for a long while. It was the issue of concern how these debts, which disrupted the cash flow of the sector, would be compensated.

On April 6, 2018, the **Law numbered 7104 on Amendment of the Value Added Tax Law, Some Laws and Decree Law No. 178** was published ("Law"). "Provisional Article 75" added to **Law No. 2547 of the Higher Education Law** with the Law; provides a new payment model for accumulated debts arising from the purchase of drugs and medical devices by state university hospitals. However, those who want to receive payments by this method; must accept reductions to be applied on the amount of the receivable while applying this payment.

How will the Payments be Made?

According to Provisional Article 75 added to the Higher Education Law with Article 22 of the Law;

The debts related to the purchase of drugs and medical supplies which are included in the accounting records of health practice and research center's revolving funds related to medical faculties of state-owned universities, as of December 31, 2017 and which have not been paid on April 6, 2018, will be paid in one time by the loan given to the institution from the Ministry of Finance.

The creditors seeking to benefit from this payment need to apply to the debtor institution in writing until May 6, 2018, with respect to all receivables including the scope of this payment in the related business. This application should include that;

- Instead of the amount of the receivable, the creditor agrees to pay the amount to be calculated as the result of applying the discount rates to be determined by the Council of Ministers according to the date of receipt and the type of the receivable (drug or medical material types) and waives the amount corresponding to the discount rate
- The creditor waives the lawsuits and execution orders for the receivables included in the scope of this payment,
- The creditor declares that the rights and receivables related the receivables which will be paid under this article will not be subject to dispute under no circumstance.

After the end of the one-month period on May 6, 2018; the creditor, who has applied to debtor institution, shall notify the Ministry of Finance within **15 days** of the amount to be calculated. The amount calculated by the Ministry of Finance pursuant to the discount rates to be determined by the Council of Ministers shall be transferred to the institution within **1 month**. After all deductions that the legally required have been deducted by the institution, the remaining amount shall be paid to the creditor within **5 working days** following the transfer. However, default interest, delay interest or any similar payment regarding the debts to be paid will not be covered. Additionally, in the waived proceedings, the proxy fee and litigation expenses will be decided to be paid by both parties.

Discount rates to be applied to receivables are determined by the decision of the Council of Ministers numbered 2018/11611 published in the Official Gazette dated April 19, 2018. Regarding the discount rates to be applied to medical supplies; a month-based increase starting with a 0% discount for debts recorded before 2014 to 27% discount for the debts recorded in December 2017 is anticipated. For medicines, no discount will be applied to debts recorded before January 2016, and a month-based increase starting with a 0.375% discount on debts recorded in January 2016 to 9% discount on debts recorded in December 2017.

The amounts owed to the Ministry of Finance by the relevant revolving fund administration of the institution shall be collected without any interest by the Social Security Institution by deducting from the payments to be made to the related institution as of January 2020 with 60 months of equal installments. The deductions made by the Social Security Institution will be transferred to the Ministry of Finance within 5 working days.

Assessments

With the Provisional Article 75 added to the Higher Education Law, when the necessary transactions are carried out by the creditor, the accumulated debts of state universities regarding the purchase of medicines and medical devices are organized to be paid by the Ministry of Finance until **June 20, 2018**. Together with the opportunity given by the effectuated procedure for the payment of accumulated debts, the application of the creditors is unprompted. In addition, it is compulsory that the application of the creditor should include all receivables owed by the relevant institution.



ÖZGE ATILGAN
KARAKULAK
PARTNER
+ 90 (212) 354 00 24
ozge.atilgan@gun.av.tr



DİCLE DOĞAN
SENIOR ASSOCIATE
+ 90 (212) 354 00 50
dicle.dogan@gun.av.tr



FATMA SEVDE TAN
ASSOCIATE
+ 90 (212) 354 00 24
fatmasevde.tan@gun.av.tr