

THE PROBLEM OF TAXATION OF ELECTRONIC COMMERCE IN TURKISH TAX SYSTEM

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Abstract:

Electronic commerce (e-commerce), took part in our lives with technological advancements. On the other hand, the Turkish tax system is based on the physical assets of taxpayers of other countries known to the taxpayers and where the transaction is made. Therefore, due to a number of features coming from the nature of e-commerce, some problems arise when e-commerce, which forms a new tax base, is taxed with existing tax laws. According to the report of the global competitiveness, which shows the countries' latest technological suitability, between 2016-2017, Turkey is in 67th place with 4.2 points in 2016. This shows that Turkey has yet to do business in the e-commerce process. For the solution of this problem, the key question that needs to be answered is whether the digital activities could possibly be taxable under current legal system. The aim of this study is to examine the problem regarding taxation of e-commerce under the Turkish tax system.

Keyword: E-Commerce, taxation, digital economy.

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Introduction:

As the internet has become an important part of our lives, it has also been used for business transactions. With the globalization phenomenon affecting everybody in society, it has come to the point of restructuring the financial administrations of the countries parallel to the developments in information and technology. In this framework, countries have gone through e-government.

States have to get rid of traditional structures and adopt electronic understanding into their institutions. Within the context of e-government project in Turkey, Electronic Billing Registration System started to be implemented with a limited number of enterprises. It was then included in the system, requiring the use of e-bills for businesses with certain criteria. Businesses that use the e-billing application have started to use the next level of e-book application.

While there have been various opinions on the taxation of e-commerce, a consensus on these ideas has not yet been reached because each view has its own advantages and disadvantages. However, the fact that a common tax system has not been established for the taxation of e-commerce has led to the fact that the people and businesses that are engaged in

traditional commercial activities are damaged due to unfair competition, and that some persons and businesses that perform e-commerce activities are tax evasion or tax evasion.

The main aim of this study is to be an increasingly important place in today's commercial life detailed analysis of the concept of e-commerce being acquired, investigation of the studies made within the scope of taxation, taxation solutions presented to the problems and problems experienced in the analysis of proposals and to evaluate e-commerce practices and e-commerce taxation in Turkey.

Electronic tax applications:

Electronic tax management; tax declarations are filled in electronic form by taxpayers to taxpayers and delivered to the tax office. Taxes can be paid without going to the tax office with computers connected to the internet and online communication tools. In e-government practice e-taxation is used in most developed and developing countries. E-taxation is an e-government application that enables the pedagogy and collection of the tax.

Electronic tax applications applied with technological development are mentioned below.

Electronic Tax Declaration Program:

Electronic declaration, filling of tax statements in digital form and to be delivered. Systems relating to electronic filing of tax returns, in terms of the state, reduces the labor costs associated with entering tax data by hand; data destroys human faults in the entrances and stores; your tax evangelists reduce the time spent in filling in preparation; incorrect registration and incorrect ensures a reliable tax return that is free from information (GIB, 2016) .

On October 1, 2004, in Turkey, the internet address of the Internet Tax Office, which was initiated on an optional basis and which became mandatory on 03 March 2005 e-declaration, except for inheritance and transfer tax, all of the obligatory tax declaration applied in taxation. While the electronic declaration rate was 0.5% in 2004, this ratio has reached 99% by the end of 2016 (Kocamış, 2017).

Electronic Lien Project:-

The implementation of the electronic lien (e-lien) put into practice in 2009 was developed by the Presidency of Revenue Administration. According to the 79th article of AATUHK No. 6183, taxpayers are notified of the foreclosure of tax offices, T.C. The Ministry of Finance is notified in the electronic environment of the e-lien which is participated in the application of e-lien on behalf of the creditor tax offices by the Ministry of Finance and all these kinds of receivables and rights are transferred to the tax office accounts (GIB, 2016).

The tax office consists of three main sections: the Central Registry Agency and the bank. Application software for tax office and center was prepared and test works were completed. With the Law no. 5904, legal amendments were made to allow for the seizure of real estate, ships and vehicles in the electronic environment and infrastructure works started. In addition, it will be ensured that the vehicles registered to Traffic Branches and Bureaus are registered in the electronic environment (Kocabeyoğlu, 2010).

Elektronik Notification:-

Since 01.04.2016, some taxpayers have been taken under the scope of e-notification application and due to the obligations of these taxpayers to receive e-notifications, it became necessary to use electronic address that is convenient for the notification. It is also understood that the taxpayers who are to be e-notified are those who are involved in this application and are responsible for fulfilling the necessary obligations, irrespective of their wishes, but also are

taxpayers who are allowed to apply this application depending on their wishes. However, in both cases, those who are to be e-notified are obliged to receive an e-notification address and use electronic notification system. In addition to this, some taxpayer groups are not informed in electronic media provided that they do not obtain commercial, agricultural and professional profits and do not demand to be notified of them electronically.

Taxpayers of electronic communications have the obligation to notify and obtain an e-notification address. When legal arrangements are examined, it is understood that there are different requirements according to taxpayer groups.

Taxpayers who enter the new taxpayer after 01.04.2016 must file an electronic notification request within 15 days following the date of commencement of work. Taxpayers are examining these applications and obtaining internet tax office user code, password and password and e-notification address given to those who have the necessary conditions (VUK 456 numbered General Communiqué).

The income taxpayers who have established a new liability after 01.04.2016 may fulfill their reporting obligations by themselves during the taxpayers' establishment or through the persons authorized by the power of attorney given in the notary public with special authorization to carry out transactions related to the electronic notification system. The notification of E-Notification must be given to the tax authorities (VUK 456, General Communiqué).

E-Bookkeeping:-

The first regulations related to e-Book were prepared by Ministry of Finance and Ministry of Customs and Commerce and published in December 2011 with e-Book General Communiqué. With the General Communiqué of Code No. 421 Tax Procedure Law (VUK), some sectors and taxpayers have been obliged to go to e-book application as well as e-bills.

Taxpayers under the obligation to bookkeepers must complete the e-book application process by December 2014 at the latest and they have to go through e-book application starting from 1 January 2015.

E-Invoice Application:-

The E-Invoice is a system that allows the transmission of information between the seller and the buyer via a central platform (Revenue Administration), where the data format and standard are set by the Revenue Administration. Europe-wide e-billing, multiple standards and a very wide format (Doğan, 2013).

In respect of the authorization granted to the Ministry of Finance by the provision in the paragraph 2 of Article 242 of the Tax Code, the e-invoice created with the arrangements regarding the regulation of the customer, the issuance of the customer, the invitation of the customer, the issuance of the invoice as an electronic document, the transmission of the customer in the electronic environment and the preservation and submission in the electronic environment is not a new document type and is the same as the paper invoice have legal qualifications.

Problem of Taxation of Electronic Commerce in Turkish Tax System:-

The Turkish tax system is based on the physical assets of taxpayers of other countries known to the taxpayers and where the transaction is made. Therefore, due to a number of features coming from the nature of e-commerce, some problems arise when e-commerce, which forms a new tax base, is taxed with existing tax laws.

In Turkish tax law, when e-commerce is taxed with current tax laws, most of the problems that arise are stemming from the commercial form of digital e-commerce, such as

digital product sales, virtual companies. The "comparison law", which is also valid in the tax law as it is in the penal law and the "legal principle of taxation", which takes the grounds from Article 73 of the Constitution, makes it difficult to tax the above-mentioned free e-commerce with the existing tax laws.

Apart from a detailed examination of the problems that arise in Turkish tax legislation on taxation of e-commerce, it is worth mentioning a problem that affects all tax legislation. E-commerce has brought a new terminology to concepts such as "virtual" and "electronic". The evaluation of these concepts within this terminology will affect tax laws based on traditional trade terminology. Just as other countries are subject to tax laws, Turkish tax legislation does not in any way predict these new terminologies and concepts that emerged from e-commerce. For this reason, the absence of e-commerce terminology in tax laws can be regarded as the greatest deficiency (TOBB, 2002). The problems of taxation of existing Turkish tax legislation and e-commerce can be examined in more detail (Coşkun, 2003).

Problems in Tax Procedure Law

Article 7 of the Tax Procedural Code, dated 23.7.2010 and numbered 6009 Article 107 / A numbered with the heading "Notification in electronic media" a new one has been added to the notification procedures stipulated in the Law. Notification shall be made in accordance with the provisions of the VUK in the first paragraph of the said regulation notwithstanding the procedures listed in Article 93 of the Law, may be communicated electronically by means of an address available for notification; In the second paragraph, it is stated that the Ministry of Finance is authorized to establish all kinds of technical infrastructure related to the notification to be made in electronic environment, to use the established ones, to make the necessity of using electronic address convenient to the notification and to be notified in electronic environment and to determine other procedures and principles related to notification in electronic environment it is connected.

According to article 107 / A of the VUK, Article 5 of Law No. 6637 dated 7.4.2015 it is foreseen that the notification made in the electronic environment by adding a paragraph will be made at the end of the fifth day following the date of reaching the electronic address of the correspondent. The Ministry of Finance has determined the procedures and principles related to the notification in electronic environment with the General Communiqué No: 456 of VUK and that electronic notification will be started as of 01.01.2016 and that those notified before this date may be notified in electronic environment as of 01.10.2015 but with the General Communiqué No 467 of the VUK General Communiqué and the taxpayers of the corporations changed the period required to make electronic notification requests to 01.04.2016 and re-determined the date to start the electronic notification application in parallel with this change.

According those regulations, the problem is occur for determining the parties in relation to taxand durations problem in electronic environment; the problem of determining the taxable event in digital product sales; problem of notifying tax; assignments of taxpayers and electronic document-registration scheme.

Problem in Personal Income Tax and Corporation Tax:-

At the beginning of taxation problems, the classical definitions in tax law are inadequate in terms of comprehending electronic commerce as income or corporation tax. It lies at the basis of the fact that the concept of "workplace" or "permanent representative", which constitutes the

basis for the formation of taxation authority in terms of commercial gains, has not been established in international law, especially in terms of electronic commerce (Avci, 2017).

The other problem in income tax is taxpayer. In terms of income tax, the resident who is subject to the residence criteria of real persons loses the importance of full liability on the condition of being permanently lengthened six months in a calendar year. According to the generally accepted view, internet service providers will not be considered as permanent representatives. There are two reasons for this (Avci, 2017). First, internet service providers do not have contractual authority on behalf of the enterprise in the current operation. Second, the website on which the business activity is conducted will not be considered a natural person.

The double taxation problem will also arise in terms of corporations tax. In some cases it is difficult to determine where the people are located. In the corporation tax, it is difficult to apply the centrally located workplace center criterion where the works which are valid for the determination of full tax liability are actually managed. Because management and production centers can be shown in different countries (Erdem, 2017).

Another problem is the difficulty in determining the tax base. To be subject to income tax, the tax base must be found. For this, gross income and expenditure must be determined. However, it is not easy to determine the gross earnings, expenses, and therefore the tax base for commercial and professional activities in the electronic environment.

In summarize the problem of determining the liability claim; the problem of determining where the income is obtained; the problem of determining the quality of income obtained and the tax base problem are the common problems on personal income tax and corporation tax.

Problem in Value Added Tax:-

Value Added Tax (VAT); commercial, industrial, agricultural and professional quality of goods delivered and service performed over the indirect tax. In the current situation, VAT is quite effective in e-commerce compared to earnings tax. The problems arising from VAT are mostly due to cross-border activities (Erdem, 2017).

All the process coverage of VAT from production to consumption provides self-control (Giray, 2002). However, since there are no intermediaries in e-commerce, determining the taxable transaction is particularly difficult in digital products (Avci, 2017).

Many elements in the e-taxation bring different work and investments to the agenda. For example, the advertisement of a product given by a customer in Turkey may be dependent on the important raw, infrastructure and technological investment elements in another country where the company providing advertising service to reach the correct and related person in Turkey again. At this point, it does not carry the full value added of the customer's local product to the source country. For this reason, the main issue is how to distribute the created value added between the resident country and the source country.

In this case, it is very difficult to determine how much of the income generated from Turkey is created in Turkey as added value and which will be taxed in Turkey by being attributed to the work that is deemed to have occurred in Turkey (Erdem, 2017).

Conclusion:

In e-commerce, sales can be made through a server that will be established anywhere in the world without opening a business in the country or having a permanent representative. This

will lead to some problems in the scope of existing taxation principles. At the very least, these troubles should be tried to be minimized as much as possible.

The application of e-taxation facilitates the tax collection functions, while facilitating the fulfillment of legal obligations of taxpayers, by evaluating the information obtained from information obtained from other institutions. For this reason, it is necessary to make necessary legal and technical regulations within the public order to balance and reduce the risks that the blessings of technology have brought against the positive effects in terms of society and the individual.

One of the most important dimensions of these regulations is the steps that will ensure the harmonization of the tax system with the new world order. we have not yet established a worldwide taxation system for e-Commerce taxation. For this reason, it would not be right to say that Turkey is late in taxing e-commerce, but it is reasonable to start serious work as soon as possible. In this regard, it can be said that Turkey has the advantage of evaluating the results of the proposed proposals and applications. At this stage, Turkey will have to make the necessary technical and legal infrastructure before it is taxed. Although the enactment of "electronic signature" is considered a major development, there are important steps to be taken.

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