

The Status of Distance Education Application in Türkiye in Terms of Taxation

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ABSTRACT

One of the important opportunities that developing technology has provided to the education sector is the use of internet environments to benefit from distance education. With the great impact of the pandemic experienced in the world, distance education has become a preferred option for the education sector to reach wider circles, to make such internet tools more widespread and to benefit the advantages of their use even if there are no mandatory situations. Therefore, it has become preferred by service providers. The education service provided by these internet environments has also taken its place among the subjects of the tax systems implemented by the countries. In our study, the taxation situation of the service-providing units in Türkiye is evaluated in case of face-to-face and distance education services. By examining the subject, it has been determined that distance education is more advantageous in taxation than compared to face-to-face education.

Keywords: Distance Education, Tax, Income Exemption, Commercial Activity, Internet

INTRODUCTION

With the development of technology in the 1980s, the use of personal computers has become a part of our lives. This situation has caused significant and different changes in economic life, transportation and communication. While the management and marketing areas and forms change in economic terms, the state also needs to keep up with the times and take the necessary precautions to use its taxation authority in this area, identify the emerging tax issues, and introduce new taxes. The use of information technologies in education, as well as in economic life, has brought about some new regulations. The ability to deliver education to wider audiences without any time or place restrictions by taking advantage of technological developments has begun to come to the fore in the field of education, as well as in the social and economic fields that have been deeply affected by the COVID-19 global pandemic. It has caused the development and increase in the number of educational institutions and educators providing education services in this field.

The distance education sector has become a system that brings together educators who want to provide distance education to those who do not want or cannot leave the environment they are in, in a digital environment over the internet (Trombitas, 2020). Positive developments in information technologies determine the pace of socio-economic life (Çelener, 2019: 32). In this context, activities such as providing distance education services in a digital environment and establishing platforms related to this subject find a counterpart in social and economic life, as well as in the field of tax law, in the form of the services provided being subject to tax. As in the digital economy, the structure of distance education services that does not require physical space creates a different medium for legal systems that are established according to a physical space and border and set rules accordingly (Çelener, 2019: 32). Because the necessity of using the infrastructure of the IP-based internet brings with it an abstract structure and this situation brings with it very wide flexibility without any spatial boundaries (Williams, et al., 2008: 506, Selvi, 2006: 201-2011). The size of the service provided

exceeds the boundaries and the international area can be easily reached thanks to technological opportunities. As a result, companies and individuals providing distance education serve large masses in the digital area. Thus, how and in what way companies and educators providing distance education services are taxed constitutes the subject of our study. Our study will examine how and in what manner the companies and educators providing distance education services are taxed. In addition, our study will examine the tax treatment of those who provide education with two different methods, one face-to-face and the other distance education, and which one is advantageous.

METHOD OF THE STUDY

As a research method in the study, the status of the services provided by individuals and institutions providing distance education services in terms of taxation was evaluated within the framework of the relevant tax laws. Written materials and documents containing information were examined.

The primary sources for taxation of distance education services are the Income Tax Law No. 193 (GVK), the Corporate Tax Law No. 5520 (KVK), and the Value Added Tax Law No. 3065 (KDV). In addition, the provisions of the Tax Procedure Law No. 213 (VUK) are also included.

In this context, firstly the taxation of education services in Türkiye, then the taxation of education services provided by individuals and institutions providing distance education services will be examined. Then, the time when the income is obtained in return for the education service in question, the taxes to which the education service provided is subject, and the documents and invoices that need to be prepared will be discussed, and information will be provided about the tax supports provided in terms of supporting distance education. The tax differences between face-to-face and distance education will be discussed and suggestions will be made.

TAXATION OF EDUCATION IN TÜRKİYE

The provisions regarding the taxation of income obtained as a result of education activities are as follows;

In terms of Income Tax Law

There are provisions regarding the taxation of income obtained as a result of educational activities in various articles of the Income Tax Law No. 193 (GVK). The activities considered as commercial income are listed in Article 37 of the said law and it is stated in Article 37/3 that the operation of private schools is a commercial activity.

The first paragraph of the 61st article of the Income Tax Law includes the definition of wages and the 65th article includes the definition of '*earnings from freelance work*'.

In addition, in subparagraph 1/4 of article 82, incidental freelance activities are listed, and in article 94/1, it is stipulated that "*those who are required to make withholding tax are listed and 20% income tax withholding will be made from the payments they make.*"

Within the framework of the above-mentioned provisions of the law, if an educator working for an employer provides education under his/her employer, the educator in question will receive a wage income and the income earned will be subject to a 20% withholding tax through the payroll prepared by the employer.

If the person provides education services in the form of private lessons on his/her behalf and account, he/she will have earned freelance income. However, if the same person provides these educations occasionally, that is, does not practice his/her usual profession, he/she will have earned incidental income. In this case, if the educator in question earns an income below 87.000 TL for the year 2024, the income of that educator will be exempt from tax. However, if the same person provides this education in a company that is obliged to deduct tax at source, the payments to be made to him/her according to Article 94 of the Income Tax Law will be exempt from tax. According to Article 94 of the Income Tax Law, the payments to be made to him/her will be paid after withholding tax at source at the rate of 20%.

The 20th article of the Income Tax Law includes the regulation regarding 'nurseries, daycare centers and education and training enterprises.' According to the relevant article; "*Income earned from the operation of private nurseries and daycare centers and preschool, primary education, special education and secondary education private schools are exempt from income tax for five taxation periods within the framework of the procedures and principles to be determined by the Ministry of Finance after receiving the opinion of the relevant Ministry. The exemption begins from the taxation period in which the nurseries and daycare centers and schools are put into operation.*" These provisions have granted an income exemption. Education and training are supported with these exemptions.

On the other hand, the relevant law's article 89 stipulates the deductions that can be deducted from the income to be declared in the income tax return. According to this article, provided that;

- 'It does not exceed 10% of the income,
- 'It is realized in Türkiye, and
- 'It is documented with documents to be obtained from real or legal persons who are liable to income or corporate tax',

It is regulated that the education expenses made for the taxpayer, his/her spouse and minor children can be deducted from the Income Tax base. It is regulated in the text of the article that wage earners who benefit from the 5% tax deduction due to education and health expenses within the framework of the 121st repeated article cannot deduct their education expenses according to the provision of this article.

In Terms of Tax Procedure Law

According to the provisions of the Tax Procedure Law, the person or company providing education services will collect a fee for the education services they provide to students or people receiving education and will issue an invoice at this stage. If the person providing education works under the supervision of an institution, a wage bill will be issued for the money to be paid to the educator by the educational institution in question. If the educator provides education on his/her own behalf, the course fee will vary depending on whether he/she provides this education continuously or occasionally. Suppose a person who works on his/her behalf does not provide this education continuously and his/her annual income does not exceed the amount specified in the law (87.000 TL in 2024). In that case, no document will be issued for the income obtained and the income will be exempt from tax. If it exceeds the specified amount, it is obligatory to issue an expense note to the person or organization receiving education (Income Tax Law General Communiqué No. 221). If a situation exceeds the said amount and is continuous, it will be subject to tax in real method by establishing tax liability and will issue a freelance receipt. In case the real persons subject to tax in real method do not fulfill their tax obligations, their taxes will be assessed ex officio by the administration.

Providing educational services over the Internet in one's name and account as a regular or occasional freelance activity does not prevent withholding. In both cases, income tax withholding must be made from the amounts paid by Article 94-1, subparagraph 2-b of the Income Tax Law.

In Terms of Value Added Tax

It is stipulated in Article 1/1 of the Value Added Tax Law No. 3065 that "*deliveries and services made within the framework of commercial, industrial, agricultural activities and independent professional activities in Türkiye are subject to value added tax*".

In article 10/a of the same law, it is stipulated that "*In cases of delivery of goods and performance of services, with the delivery of the goods or performance of the service,*", and in article 10/b, it is stipulated that "*in cases where invoices or similar documents are issued before the delivery of goods or provision of services, the event giving rise to tax occurs when the invoice or similar documents are issued, limited to the amount shown in these documents*".

VAT rates have been determined as follows, under Article 28 of the Law: "*As of 10/07/2023, with the Presidential Decree No. 7346, 1% for deliveries and services included in the attached list (I), 10% for*

deliveries and services included in the list (II), and 20% for taxable transactions not included in these lists.”

In the 15th row of the Annex II List of the VAT Law, it is stated that “Education and Training Services Provided within the Scope of Universities and Colleges and the Private Education Institutions Law No. 5580, the Social Services and Child Protection Agency Law No. 2828 and the Decree Law on Private Education No. 573”, student transportation services provided within the scope of the “School Service Vehicles Service Regulation” and services provided in dormitories subject to the provisions of the “Private Student Dormitories Regulation” will be subject to a 10% tax.

TAXATION OF DISTANCE EDUCATION IN TÜRKİYE

With the global health crisis, technology has increased its place and importance in our lives. While countries are closing their doors to the world and forcing their citizens to stay at home, they have also focused on using digital platforms as a way to continue to provide certain services that are essential to life. In the field of education, which is one of the basic services that states should provide to their citizens, educational institutions and individual educators in both the private and public sectors have provided distance education services by using digital platforms to a serious extent. The fact that face-to-face education provided at a specific location and time began to be provided independently of space and time and that this service crossed country borders has brought with it some problems. One of these problems is the taxation of the education service provided. If the education is provided face-to-face, this service is subject to taxation under certain tax laws, and if the same service is provided through distance education, its status in terms of taxation may vary. Some tax problems that have emerged as a result of the changes experienced also manifest themselves in relations and transactions between countries.

The transfer of educational services to digital media has led to a decrease in the costs of those providing these services, while allowing them to reduce the cost of service and thus save money. Therefore, the burden on the state budget due to educational services has been relieved. Similarly, the decrease in some expenses such as electricity, water, and transportation in the private sector has allowed the profits they have earned to increase.

These applications, called distance (online) lessons or e-learning, differ in their tax status depending on whether the person providing education to provide educational support to students at primary, secondary, high school or university levels is a person or a company. The provisions to be applied in terms of taxation will vary depending on whether the person providing education provides this service occasionally or continuously, by establishing a web page under the supervision of an employer or on his/her behalf and account, by broadcasting from his/her Instagram or YouTube account. The income accrued by the individuals and institutions in question, due to the education they provide over the Internet, will be subject to tax within the scope of income or corporate tax within the scope of Income Tax Law No. 193 and Corporate Tax Law No. 5520. However, these earnings may remain exempt from tax due to the exception provisions in the law.

With the amendment made by Law No. 7491, as of 1/1/2024, the income of real persons who earn income from services such as individual courses, training, data processing and development, and product promotion provided over the internet and similar electronic media has been exempted from these activities. In fact, with the general communiqué “Communiqué on Amendments to the Income Tax General Communiqué (Serial No: 318)” published in the Official Gazette dated 26 September 2024; an amendment has been made as specified in Article 20/B of the Income Tax Law; “*Earnings exemption in social content production, services provided over the internet and similar electronic media and application development for mobile devices, earnings from these activities of social content producers who share content such as text, images, audio, video over the internet and similar electronic media, and earnings from services such as individual courses, training, data processing and development, product promotion provided over these environments, and earnings obtained from electronic application sharing and sales platforms of application developers for mobile devices such as smartphones or tablets are exempt from income tax.*”

In order to benefit from this exemption, an account must be opened in banks established in Türkiye. All revenues obtained as a result of these activities must be collected through this account. Banks must withhold income tax at a rate of 15% from the revenue transferred to these accounts as of the transfer

date and declare and pay it per the provisions of the Law. No additional withholding is made on this amount within the scope of Article 94.

The continuation of the relevant article states that, *“The fact that taxpayers have earnings or revenues arising from activities other than those covered by the first paragraph does not prevent them from benefiting from the exemption. Those whose total earnings within the scope of the first paragraph exceed the amount included in the fourth income bracket of the tariff written in Article 103 and those who do not collect all their income related to the activity following the conditions specified in the second paragraph cannot benefit from this exemption. Those in this situation do not have the obligation to make withholding within the scope of the first paragraph of Article 94.*

If it is determined that the conditions for the exemption are not met, the under-accrued tax will be collected together with the late payment interest by imposing a tax loss penalty.”

This exception can be used by full and limited taxpayers, regardless of whether the total income earned in the year in which the exception is used exceeds the amount in the fourth income bracket of Article 103 of the Income Tax Law (3,000,000 TL for 2024 calendar year), there are no obligations to certify books, keep books (register in the book-declaration system / keep electronic books) and issue documents. To benefit from this exception, people who provide distance education must apply to the tax office where they reside and obtain an "Exemption Certificate"(Biyik, 2024).

If the Education is Carried Out for the Educator's Own Name and Account	In case of Regular Education	In case of Occasional Education
	Self-Employment Income Subject to real method tax.	Incidental Earnings If the educator's annual income (for 2024) exceeds 87.000 TL, he/she is subject to declaration in real procedure.
		If not, 20% of the payment to be made to the educator will be deducted from the source.
If Education is Provided Under an Employer	Wage income (subject to deduction at source)	
In case of Distance Education	Subject to a 15% deduction at source on the amount deposited in the bank.	
	If the income generated exceeds TL 3.000.000 for the calendar year 2024, it will be subject to real method tax.	

On the other hand, if the amount specified in Article 20/B of Law No. 193 is exceeded (3,000,000 TL for the 2024 calendar year), taxpayers who will not be able to benefit from the exemption are not obliged to make withholding within the scope of Article 94 of the Law. In addition, taxpayers who meet the exemption conditions will not submit an annual income tax return for the earnings they obtain due to their activities within the scope of the exemption, and if a return is submitted for other incomes, these earnings will not be included in the return (Özmen, 2024, Gelir Vergisi Genel Tebliği, 2024).

When we look at the issue in terms of VAT; if the service provided to students by providing distance education services over the Internet is evaluated within the scope of the Private Education Institutions Law No. 5580, it is possible to apply a VAT of 10% in accordance with the 15th row of section (B) of the attached list No. II. Otherwise, the education and training services in question will be subject to a Value Added Tax of 20%.

On the other hand, in terms of the Income Tax Law, if the income obtained from teachers who provide lesson preparation and teaching services in their names and accounts under personal responsibility, without being affiliated with companies providing distance education platform services, is evaluated as self-employment income, this service should be subject to VAT; if the self-employment activity is provided incidentally and not continuously, the said service is not subject to VAT; if the teachers work in a way that shows loyalty to companies providing distance education services based on a service

contract, if the income obtained is evaluated as a wage, VAT should not be calculated since it is not subject to VAT.

However, if distance education services provided via the Internet are excluded from this scope and services are provided online or using video, the VAT rate will be 20%.

CONCLUSION

In cases where educators providing face-to-face education services provide these education services based on a service contract they have made with an employer or provide distance education services via the Internet, the income earned by these persons constitutes wage income. The wage income earned by these persons will be subject to income tax following Articles 61, 94, 103, and 104 of the Income Tax Law. In this case, a salary roll will be prepared for these wage payments made by the employer or company.

If the person providing the education provides the education remotely on the Internet and carries out this training 'under personal responsibility and on his/her behalf and account', the income earned by the person in question will be considered as freelance earnings obtained within the scope of freelance activity. If the educational service provided is not 'continuous and is not performed in a customary occupation', this educational service will be considered an incidental freelance activity. Regardless of which of these two situations occurs, income tax withholding must be made on the payments made by Article 94/2-b of the Income Tax Law. An expense note must be prepared for the incidental freelance earnings paid to educators.

As can be seen, the conditions under which individuals providing education are subject to tax completely change depending on whether the education service is provided face-to-face or remotely, whether the education service provided face-to-face is provided by an employee or is provided personally on their behalf without being affiliated with an employer, and whether this service is temporary or occasional. Although the income of individuals who earn from services such as individual courses, training, data processing and development, and product promotion provided via the Internet and similar electronic media is exempted from tax with the amendment made by Law No. 7491, it cannot be said that all of the income earned from these activities is exempted. Since the withholding tax is applied to the service providers in return for the services in question at the rate specified in the Law according to Article 94 of the Income Tax Law, we can say that this exception has turned into a partial exception.

As a result of companies and individuals providing education services in a digital environment with undefined boundaries, it is seen that these activities are more advantageous compared to the taxation of face-to-face education services. However, individuals and organizations providing education services were subject to tax on the income they earned as a result of the education services they provided until October 2024, but after this date, they were excluded from the scope of tax (RG, 26.09.2024). Thus, there has been a difference in the income of individuals and organizations providing face-to-face education services and those providing distance education on the Internet, equal to the tax paid, since one is subject to tax and the other is not.

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5520 Sayılı Kurumlar Vergisi Kanunu
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