

## Taxation of the phenomena

Recently, we have come across news that people with reputation on the internet and social media environments and who are generally called as “phenomenon” were summoned to the tax offices and asked a number of questions about their income.

The phenomena have succeeded in attracting the attention of the masses on the internet and social media platforms and started to convert these achievements into cash. However, we can say that the income of the phenomena attracted the attention of tax authorities as well. Considering that this issue will be on the agenda in the upcoming period, we believe that detecting and rapidly completing their deficiencies related to tax liabilities if any will be to the benefit of relevant persons.

One of the most fundamental debates on taxation of the phenomena is about whether income acquired should be qualified as commercial income or self-employment activity. However, in general, instead of determining a single income element, we are of the opinion that it would be appropriate to make a determination by looking at the essence of the work done on the internet. When considered from this aspect, it is understood that the income acquired through the activities of the phenomena in different cases may be wage, self-employment income, commercial income and incidental income.

Persons acquiring commercial or self-employment income will be required to register themselves as taxpayers in tax offices, submit tax returns on time, keep their legal books and entries and issue invoices for the services they provide. Even if the payments they receive are subject to withholding tax, these obligations will not be eliminated. On the other side, the phenomenon's being below the age of 18 will not eliminate their tax liabilities and the tax liabilities of the persons in that situation should be fulfilled by their parents.

However, the status of tax residence is also an important matter in the detection of tax liabilities. The Income Tax Law indicates that persons with domiciles in Turkey or the ones staying in Turkey over six months in an entire calendar year are considered as Turkish tax residents and their whole income acquired domestically and abroad is subject to taxation in Turkey. As per the Income Tax Law, in the circumstance that the Turkish tax residents are deemed as residents of another country also pertaining to the legislation of that country, provisions of the double taxation avoidance treaty (DTT) between Turkey and the concerning country should be taken into account to resolve the matter of residency.

The non-residents will be taxed for only the income originating from Turkey and their situation must be examined in details in terms of case and country basis.

In fact, many different activities may exist within the content of the concept defined as internet phenomenon. We'll talk about some of these below.

## **Income of the Youtubers**

Here, it is possible to analyse Youtubers under two different categories; the first of them are the ones who handle the activity of the Youtuber alone with their own personal work and the second one with a big capital and organization.

Income acquired by those dealing with this activity based on personal work will be regarded as self-employment income and those who do it within the organization will be considered as commercial income. However, for the income considered within the context of self-employment income, identifying whether the content produced is a work of art pursuant to the Law of Intellectual and Artistic Works and if it is, registering the related content as a work of art through the application submitted to the Ministry of Culture will allow the income acquired from that content to benefit from income tax exemption.

## **Income from influencer marketing**

In addition to traditional marketing, it is seen that companies, brands make advertising agreements with phenomena. It is considered that the income acquired through the related promotions in terms of phenomena will need to be evaluated within the scope of commercial income. However, it can be said that those carrying out this activity with ties to an employer earn wage income. Through the Presidential Decision no.476, the payments to be made for advertising services via the internet as of 1.1.2019 will be subject to withholding tax. Therefore, a withholding income tax of 15 % will be applied over the income acquired by the phenomena through the promotions on the internet as of that date by the parties making the payment.

## **Income of gamers**

In addition to the activities of social media phenomena indicated above, one of the most popular jobs nowadays is playing games on game platforms and obtain income while playing.

People ensure the other participants' spending time on that platform by chatting with them at the same time. Game platforms both enable the people to demonstrate their game performances and also pay them share from the income gained by the platform. Generally these platforms consist of structures organised as companies and therefore any tax matter does not arise in terms of them. However, it is thought that the revenues generated by the Gamers are also based on personal effort and in this sense they should be taxed as self-employment income.

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