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# The digital services tax in Covid – 19 days

As the fall of the Berlin Wall terminated the iron curtain, the expectations of a more integrated world were very common just until three years ago because of globalization following improved supply chains and a digitalized economy. However, it turned into a controversial world order discussions and pursuits after Brexit. After Brexit, governments started adopting protectionist policies in every field instead of cooperation.

Following the economic crisis in 2008, the rules of international tax architecture started to be reconstructed with the OECD's BEPS action plans under the leadership of the G20, against the economic functioning to globalization. The leading among those are “automatic exchange of information for tax transparency”, “Multilateral” and automatic exchange of thousands of bilateral tax agreements and “taxation of the digitalized economy”.

The first examples of these are “automatic exchange of information for tax transparency”, “Multilateral Convention” for automatic amendment of thousands of bilateral tax agreements inventory and “the tax challenges of digitalized economy”.

In this picture, Turkey also joined the countries introducing a digital services tax (“DST”) as many other countries as of December 2019 without waiting for an international solution for taxation of companies in the digitalized economy. However, the approach to taxing digital companies with the DST has become more complex since DST has been added to “VAT III” and “withholding tax implementation”.

Why DST? Are the existing tax laws not enough to collect tax from these companies? Unfortunately, the existing international taxation architecture falls short of taxing the global digital companies, because the foundation of both local and international tax agreements is based on the "physical store" principle (“brick and mortar”).

The taxpayers of the DST which enters into force as of 1 March 2020 has been defined as the "global digital companies" residing abroad and gaining revenue in Turkey without a permanent establishment or permanent representative in Turkey. Turkey also, as well as the other countries, intends to get its share from the revenue gained in Turkey as source country despite these companies do not have “a physical presence”. The most important justification of the law is based upon the thought that the digital giants processing Turkey’s market data shall pay some tax to Turkey in return. Because data is the oil of the digital era and value is created through processing it as oil.

However, at that point, through the authority granted with the Law no.7194, the President is authorized to reduce the DST to zero or increase the DST up to three folds. With the use of this authority, the number of taxpayers covered in 2020 may be limited or expanded by increasing or decreasing the exemption limits. It is beneficial to seriously evaluate the use of this authority during the latest environment under the impact of coronavirus since the DST at a rate of 7.5 % applied on the revenue will be affecting the corporate taxpayers that are the Turkish subsidiaries of global digital companies so forcefully.

The taxation period for the DST has been set as one-month periods of the calendar year. In other words, digital companies that exceed thresholds are required to register themselves as taxpayers from March 1, 2020 and submit tax returns every month.

On the other hand, a natural or legal person resident in Turkey has to pay three types of tax directly or indirectly due to the payments made to digital service providers. For example, a full taxpayer receiving “internet advertising service” from the non-resident - digital service provider must pay 7.5% DST, 18% reverse charge VAT and 15% withholding for the ads on the internet respectively.

Who is paying the DST? Is the non-resident digital company paying it? Or the resident taxpayers in Turkey are paying it? Except VAT taken in to account as input VAT, the remaining taxes are paid by the Turkish resident individuals and companies since the relevant taxes are reflected.

On the other side, the withholding tax at a rate of 15 % applied to the internet advertising services is deemed to be applied as contrary to the double taxation treaties if it is supplied by a taxpayer residing in an other contracting state with which Turkey has a double tax convention. Another trouble is that the 15% withholding applied on these payments are not accepted by the digital companies and the tax is paid by the service recipients. Last irregularity in the implementation of DST is that a subsidiary of a multinational resident in Turkey, a member of a consolidated group in terms of financial accounting has to pay a 7.5% DST in addition to the corporate tax at a rate of 22 % applied upon the total revenue it has acquired through the delivered services that is a subject of the DST.

Finally, potential partnerships with companies that are being established by Turkish entrepreneurs in Turkey and the market values of these companies will be negatively impacted by the DST in case an M&A deal or potential JV negotiations.

And nowadays, the Covid-19 outbreak emerged in Wuhan in January 2020 has just transformed into a global pandemic exceeding the borders of China and spreading on globe. However, it seems that it will take time to take control of the pandemic. Governments, including Turkey are repeatedly introducing monetary and fiscal policies to reduce its effects. Therefore, Turkey's approach of "taxing the global digital companies" should be reviewed and simplified as part of the financial policy measures in such an environment that is heavily under the impact of Covid-19 outbreak. We need to adopt a holistic approach to DST which turned out a mess.

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