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Tax policy in the world of sport examples in turkey, uk, spanish, italy and germany

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Abstract

Taxes are the most important source of revenue the state relies on to maintain public services. The basic objective of our tax system is to collect taxes in a fair and balanced manner, within the framework of the principles set out in the Constitution. Taxes on income make up a large proportion of tax revenues. In this context, salary income is taxed under the Income Tax Act and there are special regulations for the salary of athletes for the promotion of sport. Looking at Turkey's tax system, different methods of taxing athlete fees have been applied at different times. Comparisons with other countries show that in Turkey, the income tax rates applied to athlete salaries are relatively low, causing problems in terms of tax fairness. The study examined the legal regulations on the taxation of athlete fees and the implementation processes of these regulations, as well as proposals for the correction of practices that distort tax fairness.

Keywords: Taxation of Athletes, Sports Benefit, Income Tax, Tax Justice, Wage Revenue, Athlete Pay

GeI Classification: H20, H24, H29

Introduction

Salaries earned by athletes are taxed in accordance with constitutional principles. However, some aspects of the taxation of athletes, both in literature and in the public, are said to affect tax justice. In particular, the taxation of domestic athletes' gains with a lower tax rate compared to those abroad supports these views (ERGÜR, O.K., & KÜSTEKCI, A. (2021).

For our tax system, we can divide tax revenues into three main categories: income, expenditure and taxes on wealth, for our tax legislation. Income taxes are divided into two categories: income tax on real persons and institutional tax on legal persons. Based on the records of the Revenue Administration, the distribution of tax revenues in Turkey in 2019 shows that the share of income tax is 25.36% and that of institutional tax is 10.68%, and that the "income tax" ratio has a large share in the total tax income collected (CARIBAS, D. 2020).

In accordance with the Income Tax Act No. 193, payments made to athletes by transfer fee or by name and benefits provided are assessed within the fee, and the fees paid to them by sports clubs and anonymous sports companies are taxed by a fixed rate of withdrawal according to provisional article 72 and not according to the increasing rate of tax according to article 94 of the GVK.

As of 31/12/2023 athletes are paid by sports clubs and anonymous sports companies in the sports under the league procedure, with income tax deductions of 20% for top leagues, 20% for the top six leagues and 5% for the other league. Payments to athletes in sports that are not subject to the league procedure and payments to national sportsmen in exchange for participation in international competitions are subject to a 5% income tax deduction.

As the level of the leagues decreases to protect the sport and the athlete, the reduction of tax rates is the main source of tax injustice. The main problem here is whether the low tax rates in the context of promoting sport and athletes at the entry-level level have achieved their goal. In other words, it is questionable whether or not this advantage created for athletes as a result of low tax rates and taxation reflects sporting achievements.

The taxation of athletes will be explained by enriching them with examples, taking into account updates in the work and tax legislation. Resources obtained using documentary scanning techniques were used in the study. In this context, the tax legislation will be reviewed, the books and theses that have been written about the taxation of athletes have been reviewed and the conceptual framework will be included in the first part of our study, the second part will describe the identification of the eligibility of the athlete, the subject of the tax, the event of taxation, the method of taxing, tax rates by periods, the expenses to be reduced during the

period and through the declaration, with examples of under what conditions and how to declare the cash pay, equal pay, compensation and other income elements that athletes can receive, the third part will compare the taxing of sportsmen in foreign countries and in our country, and in the final part we will include proposals on the subject.

1.1. Taxation of athletes in turkey

Taxes are the most basic source of income the State needs to carry out public services. The fair and balanced distribution of taxes in accordance with the fundamental principles laid down in the Constitution is the main objective of the tax system. Income from salaries is taxed under the Income Tax Act, and there are exceptional arrangements for taxing athlete's salaries in order to promote sport. When it comes to the Turkish tax system, different taxation procedures are applied at different periods in relation to the taxation of athlete's salaries. In our country, taxes are levied on the income, expenditure and wealth of the payers. Since there is no specific tax on the expenditure and wealth that athletes will pay, our study will focus on the taxes that they will pay on their income (payments).

While sport plays an important role in creating a healthy individual/community, as a fundamental phenomenon of modern society, sport also interacted with economic and social elements in the 2000s. In this context, the income earned by the employer at the expense of physical labor by the athletes is assessed as wage income according to the GVK (ATEŞ, A., & TOKSOY, T. (2023).

In economic terms, wages are "the compensation for the physical and mental human power used in production" and "the price paid to be able to use food in production". According to another recognition, "remuneration is a condition of a service contract, and the remuneration for work is a money agreed upon or fixed by law. Another different recognition is that "pay is a remuneration for service" or "a reward for work." According to article 55/1 of the Constitution, "the remuneration is the reward for labor. According to article 26 of the Labour Code No. 1475 (former) and article 32 of the (new) Labour Law No. 4857: "Wage is, in general sense, the amount provided to a person by the employer in exchange for a job or by third parties and paid in money.

The high income earned by professional footballers answers the question of which income element should be assessed in tax terms. In many countries, along with the countries surveyed, footballers are defined as workers in the labour law, or are considered to be paid in

laws such as the debt law. In tax laws, however, the income earned by professional footballers is regarded as wages and the remuneration income is taxed under the regulations under this heading. The taxation of salary income earned by footballers is based on the basis that the salary is deducted at the source at the time of payment, and the deductions made in the event of a declaration are exempted from the calculated income tax (Güler, A. (2022)).

In terms of tax law, the salary is covered in GVK 61. According to this recognition, wages are defined as benefits that are provided by money and months and can be represented by money in exchange for services performed by persons who work for a particular employer, depending on their place of work. Each of the laws in the tax legislation defines the beneficiaries of that law, and the other bases are based on eligibility. Since the athletes are real persons, their income will be taxed under the Income Tax Act No. 193 (GVK) and according to the applicable law, the sportsmen are taxed as full payee or narrow payee.

1.1.1. Fully qualified athletes

The full beneficiary is the taxable beneficiary in Turkey for all earnings earned within and outside the country. (GVK m.3). The full eligibility conditions are set out in articles 3 and 4 of the GVK. According to the GVK, the first requirement for an athlete to be fully eligible is that he is established in Turkey. So residence is taken into account. The athlete must either be a resident of Turkey or have been resident in Turkey for more than six months continuously in a calendar year.

The other requirement is for Turkish citizens who are affiliated with sports clubs based in Turkey and reside abroad because of the sports club's business. Under this circumstance, the essence of nationality has been taken into account. These persons will not be re-taxed in Turkey if they have paid taxes abroad on their earnings. For example, if a Turkish athlete lives abroad due to the business of a sports club based in Turkey, he or she will be taxed as a full taxpayer, regardless of the length of time (GVK m.3/2).

Athletes entitled to full remuneration are required to declare all the elements of income they have earned during a calendar year, with the exception of income referred to in article 86 of the GVK, in accordance with article 85 of the same law.

1.1.2. Limited taxpayer athletes

Payers who are taxed on their earnings and certificates in Turkey (GVK,m.6). According to article 6 of the GVK, non-resident persons in Turkey are limited. If the athletes do not have

a residence in Turkey under the civil law and have not been in the country for more than six months in a calendar year, they will not be deemed to be established in the Republic of Turkey. It is also affiliated with a sports club operating in Turkey, and because of its business, foreign nationals who are abroad are also considered to be a narrow recipient. Narrow-paying athletes are taxed only on the gains and qualifications they earn in Turkey. If the athlete has made a concession on the gains and duties earned, the final taxation according to GVK 86/2, and they do not have to make a declaration.

2. Taxation of athletes

The Turkish Tax System has adopted the declaration procedure as a method of taxation. Taxpayers or taxpayers are taxed on the matras they have declared to the Chairman of the Revenue Administration, a subsidiary of the Ministry of Treasury and Finance, and the Treasuries and Finance Ministry is responsible for verifying the accuracy of such statements during the period of due process.

According to the GVK, the methods of taxing athletes are in the form of withdrawal, annual declaration, and a non-compliant method involving both.(GVK m.85-m.86-g.m.72).

As shown in Table 1, there will be a change in the tax rates charged on the income of athletes in our country from 1999 to the present day. In our country, as in the case of taxes, there is also a tax deduction, which is applied to taxpayers as an exception and tax incentive. Historically, in terms of income tax, there are usually special practices for taxing athletes. In particular, since the 1990s, when football began to gain more interest and footballers began to earn higher salaries, the tax amounts collected from footballers' fees have been regulated in favour of footballers, with provisional articles added to the law (Ağaya, 2019).

TABLE 1 Taxation of Athletes	
From 01.01.1999 to 24.04.2003	Taxation has been carried out in accordance with the general provisions.
From 24.03.2003 to 30.06.2008	As of 01.07.2008, it was subject to a 15% reduction in income tax.

01.07.2008 and beyond	According to the provisional article of 72, it was subject to income tax cuts at rates that vary depending on the status of the league.
Source : Çeribaş, 2020: 565	

Under the provisions of provisional article 72 of the GVK, the statement of validity until 31/12/2019 has been amended to 31/12/2023. In addition, the income tax deduction has been increased from 15% to 20% for athletes in the top league. Another regulation is that if the total annual remuneration income of athletes exceeds the amount contained in the written tariff in the fourth language (2022, Rs. 880,000.00) under article 103 of the Act, the income must be in the annual declaration. The income tax calculated under the income declared by the issuance of the annual declaration shall be deducted from the sum of tax amounts deducted on the condition that those responsible for making the withdrawal are paid to the tax office (Çeribaş, 2020: 569).

Table 2 Withholding Rates in Taxation of Athletes					
	Sports Branches Subject to League Procedure			Payments Made to Athletes in Sports Branches Not Subject to League Procedures	Payments Made to National Athletes for Participating in International Competitions
	Payments Made to Athletes in the Top League	Payments Made to Athletes in the Top Six Leagues	Payments Made to Athletes in Other Leagues		
01.01.1999-23.04.2003	Rates in GVK Md. 103				
24.04.2003-31.12.2007	15%				
01.01.2008-30.06.2008	15%				
01.07.2008-31.12.2019	15%	10%	5%	5%	5%
01.01.2020-31.12.2023	20%	10%	5%	5%	5%
Source: I have drafted the Income Tax Act No. 193 pursuant to provisional article 72.					

It was noted that payments made to e-sports players registered in the e-sport club by the sports club association's economic operations under an exception to the Presidency of the Revenue Administration could not be assessed under article G.72 of the GVK, and therefore articles 61, 63, 94, 103 and 104 of the same Act should be subject to income tax under the provisions (GIB 2019).

2. Election of european countries with turkey

As far as this section is concerned, the taxation of athletes in our country has been examined within the legal framework. In this part of our study, we will compare England, Spain, Italy and Germany, the largest leagues in Europe, for comparison purposes.

The tax that the athlete will pay in our country, assuming he plays in the top league, is single and receives a salary of Rs. 10,000,000 in 2022, will be as follows.

- The winnings of the athlete will be deducted by 20% in accordance with provisional GVK article 72. (Retention amount: 10 million TL* 20 % = 2 million TL)
- The remuneration earned as an athlete exceeds the amount contained in the fourth sentence of the written statement in article 103, so it must be declared by annual declaration in accordance with provisional article 72 of the GVK.

Tax Differences	Tax Rates
Up to 32,000 TL	15%
Rs. 4,800 for Rs. 32,000 of Rs. 70,000, more	20%
12.400 for 70,000 TL of 170,000 TL (12.400 TL for 70.000 TL of 250,000 TL in salary income), more	27%
39,400 TL for 170,000 TL of 880,000 TL (61,000 TL for 250,000 TL of 880,000 TL in wage income), excess	35%
287,900 TL for 880,000 TL of more than 880,000 TL (281,500 TL for 880,000 TL of more than 880,000 TL in wage income), more	40%

Source: (PWC, 2023)

When calculated on the basis of the data in the above table in the given annual declaration, the athlete concerned will have to pay 3,929,500,00 TL in taxes in our country.

If the athlete had been resident in the UK, he would have won £444,657.88 in 2022 (£10,000,000 / 22,4892).(The currency exchange rate contained in the Official Gazette dated 31.12.2022 has been taken into account as current.)

	Tax Rates	Revenue 2022 (GBP)
Start Rate for Savings	0%	0 - 5.000
Basic Rate	20%	0 - 37.700
Higher Rate	40%	37.701 - 150.000

Additional Rate	45%	For 150,000 and more
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Source: (PWC, 2022)

If the athlete had made a declaration in England, he would have to pay £185,056,05, or £4,161,762,43.

If the athlete had been resident in Spain, he would have won 501,632,81 euros in 2022 for 10 million TL (19,9349). (The currency exchange rate contained in the Official Gazette dated 31.12.2022 has been taken into account as current.).

Revenue (EUR)	Tax rate
Up to 12,449	19%
12.450 - 20.199	24%
20.200 - 35.199	30%
35.200 - 59.999	37%
60.000 - 299.999	45%
300,000 and more	47%

Source: (PWC, 2023)

If the athlete had made a declaration in Spain, he would have to pay 220.668.97 euros, or £4,399.013.91.

If the athlete had been resident in Italy, he would have won 501,632,81 euros in 2022 for 10 million TL.

Taxable Gain (EUR)		Tax Rate
0	15.000	23%
15.001	28.000	25%
28.001	50.000	35%
50.001		43%

Source: (PWC, 2023)

If the athlete had made a declaration in Italy, he would have to pay 208,602,11 euros, or £4,158,462,21.

If the athlete had been resident in Germany, he would have won 501,632,81 euros in 2022 for 10 million TL.

Tax Shields for Single Guests (EUR)		Tax Shields for Married Couples (EUR)		Tax Rates
0	10.347	0	21.264	0%
10.347	61.971	21.264	123.942	14%
61.971	277.825	123.942	555.650	42%
277.825	and more	555.650	and more	45%

Source: (PWC, 2022)

If the athlete had made a declaration in Germany, he would have to pay 226,486,51 euros, or Rs.

Table 12: Results of Taxation of Athlete's Gains in Different Countries	
Countries Compared	Taxes to be paid
Turkey	3.929.500,00 TL
England	4.161.762,43 TL
Spain	4.399.013,91 TL
Italy	4.158.462,21 TL
Germany	4.514.985,86 TL

As can be seen from the above comparison, our country is quite advantageous in tax terms for athletes. Due to the flat rate of discharge in our country during the year, athletes are not subject to an increased rate of tax until the end of the year; they use their own money, pay their taxes early, like other payers, and do not finance the state.

4. The problems of taxing athletes

GVK G.72 states: "In the event of an annual declaration, tax deductions under this Act shall be deducted from the income tax calculated on the declared income, provided that the tax authorities responsible for making the deduction have paid it to the tax office. "There is a judgment.

The cuts in payments to athletes are due after the cuts, not to the athlete, but to the club, etc., that paid the athletic. In accordance with article 11 of the Tax Procedure Act, the tax deductor is responsible for the payment of the amount deducted. Paragraph 3 of that article applies temporary liability in the case of purchase/sale of goods and service claims. There is no temporary liability for fees. Thus, the employer's failure to allow the worker to be taxed because of his debt is a violation of the property right contained in article 35 of the Constitution.

According to GVK 121, "taxes deducted under this Act from income including earnings and documents indicated in the Annual Income Tax Declaration shall be deduced from income tax calculated on the declaration. There is a provision, i.e. there is no requirement for payment under GVK 121. The taxation of athletes is subject to the payment of the bail made under G.72 of the GVK. Different practices arise here within the same law and this inequality is contrary to article 2 of the Constitution.

The amount of redemption that was not allowed to be paid to the victim on the grounds that the athletes were not paid at the time of the declaration would then be taxed by the employer and the sportsman would have to deal with the return process.

In addition, the amounts withdrawn by the employer from the athlete's salary are declared by the employee in a summary statement. The summary declaration may include amounts withdrawn from more than one athlete, as well as compensation from different services purchases (freelance earnings, extensive construction repairs over the years, etc.). There is no explanation in our legislation as to what concession the amount paid if the employer pays part of the debt belongs to (Department 2020).

Conclusion

Sport plays a very important role in the establishment of a healthy society. That is why sports activities are being promoted and encouraged in our country. The introduction of a flat rate tax for athletes instead of an increased rate of tax, the exemption of amateurs' salaries from tax under certain conditions, and the exclusion of awards awarded to amateurs for achievements in competitions are some of them. Even if we only make annual declarations because of the income of the athletes, our country is relatively more advantageous in terms of sportsmen than other states.

Countries are reforming their tax legislation and offering various incentives to improve the financial situation of sports clubs and athletes and to make their countries more attractive to professional sportsmen. With this approach, they aim to increase competitiveness in the sports sector and create a tax haven for high-income athletes (Bjärsholm, D., & Backman, J. (2023). In order to increase employment in our country and enable newly-grown youth to participate in the working life, tax advantages are granted to clubs that raise athletes (Basbuga, H, Kitapci, H., Oguz, E. C., & Elkoca, Y. (2022).

Athletes were taxed up to 2019 according to a flat-rate withdrawal procedure, depending on whether they were in the league and national team of the sports club they were affiliated with. The purpose of this initiative was to promote sport, to make our country attractive to athletes. However, over time, the system has been subjected to a number of criticisms because of the institutionalization of sports activities and the development of the sector and the athletes' earnings reaching very high amounts, the increasing taxation of other payers, and the violation of the taxation principles in the Constitution because they pay relatively higher taxes to athletes and the principles of justice and taxation according to financial power. The amendment to the law increased the allowance rates in article 72 of the Interim Income Tax Act for the income of athletes who signed contracts in 2020 and beyond, and imposed the obligation to report annually if the gain exceeds a certain amount, thereby imposing an increasing rate of tax on athletes.

In the sports sector, only athletes in the top leagues of a few sectors, such as football, were earning higher incomes, while others earned more reasonable incomes than the league they played in. It would be unfair for low-income athletes to keep the entire sports sector subject

to an entirely increased rate of tax due to the high consistency of winners. That is why the new application, introduced in 2020, is the most reasonable solution for us.

The requirement that athletes can deduct from their previous salaries during the annual declaration has caused a number of difficulties, such as the violation of the constitutional right of ownership and the levying of payable taxes. Similarly, the payment requirement imposed for the return in VAT withdrawals has been abolished by the Advisory Committee. Repayments from athletes' salaries to the state are the obligation of the employer, and there is no such obligation and authority as to check whether the athlete pays his employer's debt. Furthermore, in the case of partial payments made by the employer, there is no provision that the payment belongs to the athlete's redemption. The provisional article 72 of the GVK should be deleted because the purpose of the introduction is to tax the wages paid by athletes lower and the payment requirement is not compatible with the objective of the article in question.

The legal and economic principle of savings applicable to the taxation of salaries is in conflict with a continuation of the old practice for athletes signing contracts before 2020, contained in provisional article 91. According to us, the tax rate of that time should be applied whenever the salary is obtained.

Under GVK 23/1-6, women's servants are provided with shelter allowance, while men's service allowance is not provided with such allowance. Although the exception was introduced with the aim of adapting women to work, men with children have been ignored. It's not just a woman's duty to take care of children in a family institution. Therefore, legal regulations need to be made for the exploitation of male servicemen and thus dependent working male athletes from the application contained in paragraphs 23/1-6.

Moreover, cryptocurrency has recently started to be used in the sports industry, and it is an important topic for future researchers to look at how to take tax measures (Glebova, E., & Mihal'ová, P. (2023).

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