

TAXATION OF THOSE WHO EARN INCOME FROM SOCIAL MEDIA IN TÜRKİYE: PROBLEMS ENCOUNTERED AND SOLUTION SUGGESTIONS^(*)

Asst. Prof. Dr. Orçun AVCI^()**

ABSTRACT

Developments in information and communication technologies have made the use of the internet widespread in the world. With the increase in the use of the internet, the methods of commercial activities have diversified. Today, with the internet network and communication technologies taking a more active place in life, social networks have gained a special importance. Social networks represent the connections between people and the power of these connections. Today, apart from visual and written media, people have created a medium called social media by making new friends, finding old friends or sharing their knowledge and skills that they have specialized in a certain social, political, cultural, and economic area in the virtual environment. Social media has created a new field of activity by not staying away from economic life. The number of people who aim to generate income with the use of social media is increasing day by day. The logic of revenue generation, which can be achieved in different ways, is based on a similar cycle on most platforms. Content on social media platforms is created by users. This created content is crowned with an advertisement in order to attract attention and ultimately generates revenue. In addition, with social media, there is not only digital content, but also the sale of goods. As such, the tax situation of the income obtained is of great importance. Social media production activities are increasing in Türkiye as well as in the world. Various legal arrangements have been made in Türkiye in order to solve the tax problems that occur as a result of the digitalization of the said economic activities. However, despite the arrangements made on the subject, some problems still remain. In this direction, the study aims to identify the problems related to the taxation of income earners through social media in Türkiye and to offer various solutions.

Keywords

Social Media, Social Media Content Producers, Generate Income, Transfer to Heirs, Taxation of Social Media.

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(**) Aksaray University, Faculty of Economics and Administrative Sciences, Department of Public Finance, Aksaray-Türkiye,

E-posta: orcun.avci@outlook.com; Orcid Id: <https://orcid.org/0000-0002-7917-9802>.

TÜRKİYE’DE SOSYAL MEDYA ÜZERİNDEN GELİR ELDE EDENLERİN VERGİLENDİRİLMESİ: KARŞILAŞILAN SORUNLAR VE ÇÖZÜM ÖNERİLERİ

ÖZET

Bilgi ve iletişim teknolojilerindeki gelişmeler dünyadaki internet kullanımını yaygınlaştırmıştır. İnternet kullanımının artışı ile ticari faaliyetlerin yöntemleri çeşitlenmiştir. Günümüzde internet ağı ve iletişim teknolojilerinin yaşamın içinde daha aktif yer almasıyla sosyal ağlar ayrı bir önem kazanmıştır. Sosyal ağlar insanlar arasındaki bağlantıları ve bu bağlantıların gücünü temsil etmektedir. Günümüzde insanlar; görsel ve yazılı medya dışında, yeni arkadaşlıklar edinmek, eski arkadaşlarını bulmak veya sosyal, siyasal, kültürel ve ekonomik olarak belli bir konuda uzmanlaştığı bilgi ve becerilerini sanal ortamda paylaşarak sosyal medya şeklinde anılan bir mecra oluşturmuşlardır. Sosyal medya ekonomik hayattan uzak kalmayarak yeni bir faaliyet alanı doğurmuştur. Sosyal medya kullanımı ile gelir elde etme amacıyla olanların sayısı ise gün geçtikçe artmaktadır. Farklı yöntemlerle gerçekleştirilebilen gelir yaratmanın mantığı, çoğu platformda benzer bir döngüye dayanmaktadır. Sosyal medya platformlarında içerik, kullanıcılar tarafından oluşturulmaktadır. Oluşturulan bu içerik, ilgi çekebilmek amacıyla bir reklam ile taçlandırılmakta ve neticede ise geliri ortaya çıkarmaktadır. Ayrıca sosyal medya ile sadece dijital bir içerik değil aynı zamanda mal satışı da söz konusu olabilmektedir. Hâl böyle olunca elde edilen gelirin vergisel durumu büyük önem arz etmektedir. Türkiye’de de dünyada olduğu gibi sosyal medya üretim faaliyetleri oldukça artmaktadır. Söz konusu iktisadi faaliyetlerin dijitalleşmesi sonucu meydana gelen vergisel sorunlara çözüm olabilmesi adına Türkiye’de çeşitli kanuni düzenlemeler yapılmıştır. Ancak konuya ilişkin yapılan düzenlemelere rağmen bazı sorunlar devam etmektedir. Bu doğrultuda çalışma, Türkiye’de sosyal medya üzerinden gelir elde edenlerin vergilendirilmesine ilişkin sorunları tespit edebilmeyi ve çeşitli çözüm önerileri sunmayı amaçlamaktadır.

Anahtar Kelimeler

Sosyal Medya, Sosyal Medya İçerik Üreticileri, Gelir Elde Etmek, Mirasçılara Aktarım, Sosyal Medyanın Vergilendirilmesi.

INTRODUCTION

The internet has increased the rates of electronic shopping by enabling buyers and sellers to meet digitally. At the same time, thanks to the widespread use of the internet and the acceleration and development of computers, smart phones and other communication devices, people have become able to reach each other at any place and time. The widespread use of smartphones, tablets and the internet, and the fact that people stayed at home due to the Covid-19 pandemic, have made live broadcasting platforms gaining in importance. Even in this process, there have been platforms that have become stars in a short time.

As a result of the development of technology and therefore the internet, the use of social media has become an inseparable part of our lives. Now, some people have even started to make financial gains through social media platforms. Especially recently, the number of people who have started to be described as “YouTuber” is increasing day by day. On the other hand, it has become commonplace for those with a large number of followers to earn financially by making sales through their “Facebook” or “Instagram” accounts, or by advertising on their personal pages. The people in question earn through social networks in various ways such as advertising revenues, sponsorship and sales revenues, and paid subscription revenues. How these gains will be taxed has been a matter of interest for a while both in the tax world and in the eyes of those who earn it. Today, states are attempting to both follow the returns of technological opportunities and re-establish their legislation in line with these developments, to control and tax the gains that will arise from this. Therefore, in response to these developments in Türkiye, as in the rest of the world, in this respect, both legal arrangements are being made and some steps have been taken to include these income elements within the scope of taxation within the framework of these regulations.

For the years 2018, 2019, and 2020, tax inspections have been made for those who earn through social media, and efforts have been made to record and declare the incomes obtained¹. Finally, the regulation on how taxation will be

¹ **Yıldırım, Mahmut Bülent** (2022) “Sosyal Medya Üzerinden Gelir Elde Edenlerin Vergilendirilmesi”, Alomaliye, <<https://www.alomaliye.com/2022/05/12/sosyal-medya-vergilendirilmesi/>> I.a.d. 25.04.2023.

done in this sector has been made with the Law No. 7338 “The Law on the Amendment of the Tax Procedure Law and Some Laws²”. However, there are still some legal gaps on the subject. In addition, the ongoing confusion of legislation has made the tax administration’s job difficult enough. In this context in this study, the subject will be discussed in detail and the current problems and solution proposals will be emphasized.

In the study firstly, the development of the internet and social media will be examined. Then, the methods of generating income from social media will be discussed. Subsequently, within the scope of taxation of social media, taxation of social media content producers, taxation of natural persons who sell goods through social media, and finally taxation of transferring social media accounts to heirs will be discussed. In the conclusion part, the current problems and solutions on the subject will be discussed.

I. THE DEVELOPMENT OF THE INTERNET AND SOCIAL MEDIA

The word internet consists of the combination of the first parts of the words “Interconnected Networks³”. The internet was used in the development of military technology in the early times. However, with the discovery of “www (world wide web)” by Tim Berners-Lee and his team at the Swiss CERN Institute in 1991, the internet gained a serious momentum. The first system developed by Tim Berners-Lee and his team is the Web 1.0 system. This system is a one-sided and document-oriented system that allows content on the internet to be created only by certain authors⁴. Later the Web 2.0 system, which is still valid today, was developed. This system also enabled users to create

² Official Gazette of the Republic of Türkiye, N:31640, D:26.10.2021.

³ **Lampropoulos, Georgios/Siakas, Kerstin/Anastasiadis, Theofylaktos** (2019) “Internet of Things in the context of Industry 4.0: An Overview”, *International Journal of Entrepreneurial Knowledge*, V:7, I:1, p.10.

⁴ **Choudhury, Nupur** (2014) “World Wide Web and Its Journey from Web 1.0 to Web 4.0”, *International Journal of Computer Science and Information Technologies*, V:5, I:6, p.8096; **Ersöz, Betül** (2020) “Yeni Nesil Web Paradigması: Web 4.0”, *Bilgisayar Bilimleri ve Teknolojileri Dergisi*, V:1, I:2, p.59.

content by activating them. The Web 2.0 system offers users a fast communication opportunity. In the near future, a Web 3.0 system will be introduced, which allows rapid data collection and analysis and enables instant communication⁵. The next stage is a fully virtual reality-focused Web 4.0 system integrated with artificial intelligence⁶. In terms of our main subject, with the Web 2.0 technology, users have started to produce content on social networking sites that allow content producer. Therefore, Web 2.0 constitutes the technological infrastructure of social media. In short, social media has started to develop with technological developments that bring individuals from a passive position to an active and content producing position⁷.

With the development of technology, an artificial communication environment has emerged. The ever-evolving nature of the environment in question affects the whole world. The communication environment has transformed the structure of the existing environment into interactive virtual data⁸. Information and communication technology has undergone a rapid change in the last 20 years and one of the key points of this change has been the emergence of social media. The pace of change is increasing day by day. This rapid change has played an important role in shaping both the development of mobile technology and the impact of information technologies and social media.

⁵ **Choudhury**, pp.8096-809; **Patil, Hitendra J./Surwade, Yogesh P.** (2018) "Web Technologies From Web 2.0 to Web 4.0", *International Journal for Science and Advance Research in Technology*, V:4, I:4, pp.811-812; **Prabhu, Devika** (2016) "Application of Web 2.0 and Web 3.0: An Overview", *International Journal of Research in Library Science*, V:2, I:1, pp.58-59; **Solanki, Manishkumar R./Dongaonkar, Abhijit** (2016) "A Journey of Human Comfort: Web 1.0 to Web 4.0", *International Journal of Research and Scientific Innovation*, V:3, I:9, pp.75-76.

⁶ **Almeida, Fernando** (2017) "Concept and Dimensions of Web 4.0", *International Journal of Computers and Technology*, V:16, I:7, p.7041; **Nath, Keshab/Iswary, Raja** (2015) "What Comes After Web 3.0? Web 4.0 and the Future", *International Conference on Computing and Communication Systems*, p.3.

⁷ **Ersöz**, p.59; **Sağbaşı, İsa/Kaya, Oğuz Kağan Ahmet** (2020) "Sosyal Medyada Vergi Algısı", *Maliye Araştırmaları Dergisi*, V:6, I:1, p.21.

⁸ **Manovich, Lev** (2001) *The Language of New Media*, The MIT Press Cambridge, London, Massachusetts Institute of Technology, p.19.

Around the world, mobile devices play an active role in total minutes spent online. This means that anyone can connect anywhere at any time with any device in hand. Thanks to Web 2.0, the number of internet users has increased and it has enabled them to produce and share content. Web 2.0, which states that all users can contribute to web content and applications with a participatory structure, was first used in 2004, but gained real momentum in 2005⁹. Therefore, after this date, social media has started to take place in our lives.

In the simplest definition, social media is a platform where mutual communication is provided¹⁰. The paradoxical nature of social media has the ability to spread the word at best and worst¹¹. Social media is defined as internet-based services that allow individuals to communicate and collaborate with each other, as well as create and share their own content¹². One of the features that makes social media more and more attractive is that it transforms individuals from consumers to active producers, along with its support for user-generated content. Since individuals share their own ideas, understandings, knowledge, and other content, they establish and maintain relationships with other individuals who are interested in these contents¹³. Therefore, social media is the general name of any platform that institutions or individuals produce, publish, and share. Social media is all media where user-generated content is disseminated, published, and shared in its original form. Internet sites created for the purpose of internet users to meet each other, to communicate, to share content, to create a discussion environment, and to form groups where people with common interests can come together are defined as “social networks”. Examples of this are Facebook, Instagram, and Twitter, which are

⁹ **Kaplan, Andreas M./Haenlein, Michael** (2010) “Users of the World, Unite! The Challenges and Opportunities of Social Media”, *Business Horizons*, I:53, pp.60-61.

¹⁰ **Yegen, Ceren** (2013) “Demokratik ve Yeni Bir Kamusal Alan Olarak Sosyal Medya”, *Muş Alparslan Üniversitesi Sosyal Bilimler Dergisi*, V:1, I:2, p.121.

¹¹ **Coe, Peter** (2015) “The Social Media Paradox: An Intersection with Freedom of Expression and the Criminal Law”, *Information & Communications Technology Law*, V:24, I:1, p.21.

¹² **Çalışkan, Mustafa/Mencik, Yunus** (2015) “Değişen Dünyanın Yeni Yüzü: Sosyal Medya”, *Akademik Bakış Dergisi*, I:50, p.260.

¹³ **Yavan, Sercan/Sever, Emre** (2020) “Sosyal Medyadaki İçerik Üreticilerinin Vergilendirilmesi: Türkiye Örneği”, *Legal Mali Hukuk Dergisi*, V:16, I:185, pp.1324-1325.

quite popular in Türkiye. LinkedIn, where only business relations can be established, is also one of the important social networks¹⁴.

Developing internet technologies have brought different dimensions to human needs. The act of socialization, which started as finding old friends, providing business contacts, and displaying their skills by making individual posts, has turned into a habit with the emergence of different channels. Social media has become a necessity. In general, with the developments in communication technologies and new media, social networks have become the tools that individuals use to meet their needs. However, it is observed that young people mostly turn to social media tools¹⁵. These people, who are also consumers, can meet their needs such as just having fun or spending time, as well as promoting themselves on social media, sharing new experiences with others¹⁶. There are shopping comments where individuals express themselves in almost every field (blogs and vlogs), consult people they do not know about any subject (forums) or need user information about a product they want to buy, and share experiences of other users about the¹⁷. Thus, social networks provide a web-based facility that includes different media, information and communication technologies, allowing its users to explain/create their own connection lists, communicate with each other, display connection lists, and produce profiles containing their information¹⁸. Although it may seem like dialogues between individuals or small groups at first glance, the number of

¹⁴ **Türkay, İmdat** (2013) “Kamuda Vatandaş Odaklı Yönetim ve Sosyal Medya”, *Vergi Sorunları Dergisi*, I:301, p.150.

¹⁵ **Kara, Tolga** (2016) “Gençler Neden Snapchat Kullanıyor Kullanımlar ve Doyumlar Yaklaşımı Üzerinden Bir Araştırma”, *Intermedia International e-Journal*, V:3, I:5, p.276.

¹⁶ **Işık, Metin/Kaptangil, İrem** (2018) “Akıllı Telefon Bağımlılığının Sosyal Medya Kullanımı ve Beş Faktör Kişilik Özelliği ile İlişkisi: Üniversite Öğrencileri Üzerinden Bir Araştırma”, *İnsan ve Toplum Bilimleri Araştırmaları Dergisi*, V:7, I:2, p.697.

¹⁷ **Bozkurt, Gonca Şükriye** (2020) “Sosyal Medyada Parasosyal Etkileşim: Sosyal Medya Fenomenlerinin Tüketicilerin Marka Algısına Etkisinin Değerlendirilmesi” (Doktora), Selçuk Üniversitesi, Sosyal Bilimler Enstitüsü, p.10.

¹⁸ **Fuchs, Christian** (2011) “An Alternative View of Privacy on Facebook”, *Information*, V:2, p.141.

people interested in the shared information or content has increased quite rapidly and greatly, opening the doors of a different world. The Covid-19 pandemic, which surrounds the whole world, has a great share in the realization of such a rapid progress/development. It has been observed that people spend much more time on social media when they cannot leave their homes. This led to an increase in sales through social media¹⁹.

Social media has actually opened different doors to people and lives have begun to be lived there. As a result, putting social networks to the test of trust and ranking them according to the degree of power are related to the tendency of human beings to both make sense of and expose their own network and to be curious about other people's surroundings. While a social network of strong relationships and multiple connection points constitutes a relative status symbol, other people's social networks act as a window to get to know them. In their article titled "Public Displays of Connection", Donath and Boyd argue that people form an impression of a person they do not know by examining their social circle and profile, and that the numerical amount of the friend list is as effective as the person's shares²⁰. As can be seen, people's motivation to influence each other through social media has also increased. This increase is the main factor that facilitates product/service marketing over social media.

Although it is known that the use of social media is increasing all over the world and in Türkiye, and there are people who are optimistic about this process, there are also some negative consequences and risks brought by this situation. In addition to risks such as violation of personal privacy, storage of user information by social media platforms, cyber attacks, cyber bullying, and

¹⁹ **Bilen, Deniz/Yücel, Müşerref/Ünsalan, Mustafa** (2022) "Kovid-19 Pandemisi Etkisinde Tüketicinin Dijital Yalnızlığı Üzerine Nitel Bir Araştırma", Nevşehir Hacı Bektaş Veli Üniversitesi SBE Dergisi, V:12, I: Special Issue, p.329; **Lin, Min-Pei** (2020) "Prevalence of Internet Addiction during the Covid-19 Outbreak and Its Risk Factors among Junior High School Students in Taiwan", International Journal of Environmental Research and Public Health, I:17, p.1.

²⁰ **Donath, Judith/Boyd, Danah** (2004) "Public Displays of Connection", BT Technology Journal, V:22, I:4, pp.71-82.

harassment, social media addiction has recently emerged as a frequently discussed topic²¹. However, despite all these, internet use has increased significantly, especially after the 2000s. The rates in the studies on this are also noteworthy. According to the July 2022 Global Digital Report prepared by “We are Social and Hootsuite”, which carries out important studies on this subject, 63.1% (5.03 billion people) of the total world population (7.98 billion people) use the internet, while 66.9% (5.34 billion people) use mobile devices. Again, according to the results of the same study, 59% of the world population (4.70 billion people) actively use social media²². Therefore, social media platforms have now become one of the areas where income is provided as a regular business line. In fact, it has started to be seen among the business lines with a very high attractiveness and popularity rather than the usual.

II. METHODS OF GENERATING INCOME FROM SOCIAL MEDIA

Globalization in world economies and the widespread use of information and communication technologies are the two most important developments of our time. In this context, the importance of the services sector has also increased. Parallel to the reduction of commercial transaction costs of information and communication technologies, electronic commerce (e-commerce) has rapidly become widespread in different fields of activity and in different parts of the world²³. The adoption of information and communication technologies and the widespread use of the internet have changed the presentation, sale and promotion of goods and services, in short, the traditional

²¹ **Çömlekçi, Mehmet Fatih/Başol, Oğuz** (2019) “Gençlerin Sosyal Medya Kullanım Amaçları ile Sosyal Medya Bağımlılığı İlişkisinin İncelenmesi”, Celal Bayar Üniversitesi Sosyal Bilimler Dergisi, V:17, I:4, p.175.

²² **We are Social** (2022) The Global State of Digital in July 2022, Part Two, <<https://wearesocial.com/uk/blog/2022/07/the-global-state-of-digital-in-july-part-two/>> I.a.d. 14.01.2023.

²³ **Organ, İbrahim/Çavdar, Fatih** (2012) “Elektronik Ticaretin Vergilendirilmesinde Uluslararası Alanda Yaşanan Sorunlar”, İnternet Uygulamaları ve Yönetimi Dergisi, V:3, I:1, p.64; **Altuncu, Hasan/Karadağ, Cengiz** (2000) “İnternet ve Vergi”, Vergi Raporu Dergisi, I:47, p.67; **Avcı, Orçun** (2017) “E-Ticaretin Vergilendirilme Sorunsalı”, Pamukkale Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, I:27, p.251.

understanding of commerce, and the new sales and marketing approach, called e-commerce, has begun to spread throughout the world. In this framework, the internet has become an indispensable element of commercial life, and the dimensions of e-commerce have continued to increase day by day. The development of the internet has not only changed the understanding of commerce and marketing approaches, but also changed many things from communication methods to the place of technology in human life. In today's world, every business has to benefit from the opportunities that the internet provides to businesses in terms of marketing and advertising. Thanks to its features, the internet environment has become the new medium of the advertising industry²⁴. Then, with the emergence of social media platforms, the issue was moved to a much further dimension.

The increasing interest in social media platforms over time and the huge numbers in the number of users have gone far beyond the initial purpose of these platforms, which aims to share the feelings, ideas, pictures, and videos of individuals with their friends. It has had consequences that radically affect not only the advertising activities undertaken by the mass media, but also the traditional commercial activities. Serious changes and transformations have begun to occur in many areas related to commercial activities, especially in the advertising sector²⁵. Thus, advertising through social media has created a different structure from traditional advertising, as it has the opportunity to offer more information to people than traditional advertising²⁶. The expanded

²⁴ **Coşkun Karacadağ, Neslihan** (2019) "İnternet Ortamında Verilen Reklam Hizmetlerinin Vergilendirilmesi", *Vergi Raporu Dergisi*, I:236, p.75; **Çınar, Saliha/Organ, İbrahim** (2022) "E-Ticaretin Vergilendirilmesi Sorunsalının Vergi Mevzuatı Açısından Analizi", *Pamukkale Üniversitesi İşletme Araştırmaları Dergisi*, V:9, I:2, pp.414-415; **Demirel, Şeyda** (2020) "İnternet Reklamcılığı ve Türkiye'de İnternet Reklamcılığının Vergilendirilmesi" (Yüksek Lisans), Aydın Adnan Menderes Üniversitesi, Sosyal Bilimler Enstitüsü, pp.15-16.

²⁵ **Kahriman, Hamza** (2022) "Türkiye'de Sosyal Medya Platformlarında Yaşanan Bazı Vergilendirme Sorunları ve Çözümleri": Kahriman, Hamza/Bulut, Şahin (Editörler), *Yerelden Globale Sosyo-Ekonomik Bakış*, 1. Baskı, Manisa, Turkuaz Yayıncılık, pp.41-42.

²⁶ **Ortaç, Fevzi Rifat/Akçay, Deniz** (2016) "Taxation of Social Media Advertisements", *Marmara Üniversitesi Öneri Dergisi*, V:12, I:45, p.178.

function of internet advertising derives from its horizontal integration. What is meant by this horizontal integration are the three key marketing channels of communication, transaction, and distribution. Internet advertisements have advantages over other advertising types, such as interactive, individual, measurable, economical, flexible, and increasing circulation²⁷.

With the increase in online advertising services in Türkiye, the volume of digital advertising investments has reached significant amounts. Between 2011 and 2021, digital advertising investments in Türkiye increased every year and reached 7 billion 924 million TL in 2021. With the change in consumer behavior caused by the Covid-19 pandemic process, 2020 was the year in which the highest increase was experienced in Türkiye compared to the previous year. Compared to the growth rates of digital advertisements in Europe in 2020-2021, Türkiye ranked first with 99.7%²⁸. Therefore, a very high level of money has been earned through such an important platform.

When we look at the current usage purposes of social media, the first thing that stands out is the dimension based on the sharing of emotions, ideas, pictures, and videos that cause the emergence of social media channels, and this dimension is defined as individual use. In other words, it is a use that does not carry any commercial purpose or concern. People called “Influencers” and “Youtubers”, who earn money by commercially advertising their products, use the advantage of high number of followers they reach with the content they produce, the videos and pictures they share. These are also called “Social Media Phenomena²⁹”. Another application type of this is generating revenue by

²⁷ **Özen, Üstün/Sarı, Ahmet** (2008) “İnternet Reklamcılığı: İnternet Kullanıcılarının İnternet Reklamcılığı Konusundaki Tutum ve Davranışları”, *Bilişim Teknolojileri Dergisi*, V:1, I:3, p.16.

²⁸ **Demir, İhsan Cemil/Erdal, Nagihan** (2023) “Türkiye’de İnternet Reklamlarının Vergilendirilmesi ve Vergilendirilmesinde Yaşanan Sorunlar”, *Vergi Raporu Dergisi*, I:282, p.82.

²⁹ **Mariam, Siti** (2022) “Agent-Based Modeling on Purchase Decisions: The Impact of Social Media Phenomena”, *Jurnal Ekonomi*, V:11, I:3, p.1749; **Sarıtaş, Ayşe** (2018) “Sosyal Medya Reklamlarında Fenomen Kullanımı ve Reklam İzleme Tercihi”, *The Journal of International Scientific Researches*, V:3, I:4, pp.62-66.

transferring some of the revenue from the advertisements added by YouTube during the flow of the relevant content to the sharer presenting the video content, depending on the increase in the number of views (or the number of clicks, as it is known to the public) thanks to the videos shared on YouTube. Another common usage type is the producers who sell the products they produce at home through social media. Another common use of social media is the promotion and advertising of products by individual or corporate companies, which are income tax or corporate taxpayers, who want to promote the goods and services they produce or sell, through their corporate social media accounts created for product promotions. The majority of social media platforms that are widely used all over the world belong to companies originating in the United States of America (USA) and China. Although they do not produce any physical goods, the basis of the income source of these companies, which have the largest brand values and the highest earnings in the world, is the advertising revenues they obtain with the advantage of the large number of users. As a matter of fact, this issue has brought up serious efforts and studies on the taxation of the said social media platforms³⁰.

III. TAXATION OF SOCIAL MEDIA

The activities carried out on social media are closely related to various fields of law and intersect with tax law. The mass, called social media phenomena, reaches a mass that cannot be reached in the physical environment with the photo, audio, or video sharing they have made on the social media accounts visited by billions of people every day. These posts they have made can be exclusive to displaying the personal talents of the phenomena, as well as the product promotions of the businesses that want to reach more consumer

³⁰ **Kahriman**, pp.42-43; **Yılmaz, Süleyman/Erkan, Vehbi Umut** (2020) “Sosyal Medya Hesaplarının Miras Yoluyla İntikal Edip Edemeyeceği Sorusunun Kişisel Verileri Koruma Hukuku Kapsamında İncelenmesi”, İnönü Üniversitesi Hukuk Fakültesi Dergisi, V:11, I:2, pp.576-577; **Yiğitler, Mete** (2022) “7338 Sayılı Kanun Yönünden Sosyal Medya İçerik Üreticiliğinden Elde Edilen Gelirlerin Vergilendirmesi”, E-Yaklaşım Dergisi, I:351, <<https://portal.yaklasim.com/makale/2022-03/7338-sayili-kanun-yonunden-sosyal-medya-icerik-uretiliginden-elde-edilen-gelirlerin-vergilendirmesi>> I.a.d. 25.01.2023.

audiences. At this point, taxation of these people, who earn considerable amounts according to the number of followers in return for the advertisements they display for product promotions, comes to the fore³¹.

In addition to being able to earn income from almost anywhere in the world, receiving payments through individual accounts or receiving crypto money, gift certificates or direct gifts instead of payment, the question of how these will be taxed in almost every country in the world. In order for countries to tax social media content producers, they must first define this activity as a profession and income-generating situation in their laws³². The Republic of Türkiye Ministry of Treasury and Finance also carries out many studies on this issue. In the continuation of the study, various information will be given about the current regulations on this subject.

A. TAXATION OF SOCIAL MEDIA CONTENT PRODUCERS

It is seen that social media platforms create new earning methods for third parties in addition to their advertising earnings. Concepts such as Youtuber, Instagrammer, and Influencer that have emerged today have entered our lives as a profession³³. These people can reach a wide audience by uploading videos and photos on various social media platforms³⁴. In particular, by uploading videos to Youtube, advertisements are added to these videos and income is earned by watching this advertisement to the people who watch the video. A part of such

³¹ **Erol, Ahmet** (2022) "Sosyal Medya İçerik Üreticiliğinde Elde Edilen Kazançların Vergilendirilmesi", *Vergi Dünyası Dergisi*, I:486, p.96; **Gözen Bozdoğan, Kübra/Bayramoğlu, Selçuk** (2022) "Türkiye'de Sosyal Medya Fenomenlerinin ve Youtuber'ların Kazançlarının Vergilendirilmesine Dair Bir Değerlendirme", *Kahramanmaraş Sütçü İmam Üniversitesi Sosyal Bilimler Dergisi*, V:19, I:2, p.830.

³² **Radvan, Michal** (2021) "Taxation of Instagram Influencers", *Studia Iuridica Lublinensia*, V:30, I:2, p.339.

³³ **Jerslev, Anne** (2016) "In the Time of the Microcelebrity: Celebification and the YouTuber Zoella", *International Journal of Communication*, V:10, p.5233; **Acikgoz, Fulya/Burnaz, Sebnem** (2021) "The Influence of 'Influencer Marketing' on YouTube Influencers", *International Journal of Internet Marketing and Advertising*, V:15, I:2, p.202.

³⁴ **Coşkun Karadağ**, p.79.

income remains on Youtube, and the remaining part is distributed to Youtubers according to the viewership rate. It is not exactly certain whether the income distributed to these people will be qualified as commercial income or self-employment earnings. The same is true for games on Facebook. The games on Facebook are developed by third parties and users can make various payments for these games. A portion of the income generated through payments made is paid to application developers. At the same time, ads can be loaded into these games and income can be earned through these uploaded ads³⁵. All these issues are tried to be clarified by various legal regulations.

In Türkiye, “The Law on the Amendment of the Tax Procedure Law and Some Laws” for the taxation of social media content producers has entered into force. With this law, regulations regarding the taxation of both the activities of social media content producers and the activities of application developers for mobile devices have been implemented.

Until the aforementioned regulation, people who produced social media content such as video, audio, and images in the digital environment and shared it on their personal social media accounts had to establish a company for this, even if they earned 100 TL for these shares. Therefore, due to the company they had established, they had to bear many expenses such as rent, Social Security Institution premium, payment to be made for a certified public accountant, declaring their earnings and stamp duty, value added tax (VAT) arising from the declaration they would use for this purpose. However, this situation, which is now addressed in the Law No. 7338, has been clarified and social media content producers and application developers for smart devices are exempted from tax if they earn up to a certain amount (1,900,000 TL for the year 2023). However, if they exceed this exemption limit, it is stipulated that corporate tax liability will be established within the scope of the provisions of establishing a company and commercial income. Here, it is useful to remind once again that

³⁵ **Durdu, Muhammet** (2019) “Türkiye’de Sosyal Medya İşletmelerinin Vergilendirilmesi”, İnönü Üniversitesi Hukuk Fakültesi Dergisi, V:10, I:2, p.481; **Demirci Çakıroğlu, Zeynep** (2022) “Sosyal Medya Platformlarının Vergilendirilmesi”, Vergi Sorunları Dergisi, I:408, p.70.

this exception is valid for the incomes that will arise as of 01.01.2022 and therefore will not be valid for the earnings before this date³⁶.

Based on this information, freelancers who have the ability to regularly generate income from social media do not have various obligations such as bookkeeping, issuance of receipts, and monthly declarations for incomes up to 1,900,000 TL. In addition, it has become obligatory to pay 15% of their earnings to the state through banks as withholding tax. In this way, the possibility of gainers to cause various tax irregularities has been reduced. As a matter of fact, it should be said that it is difficult to define which activities are advertising revenues in the internet environment, and that money is becoming increasingly digital nowadays and that payments can sometimes be received in crypto money instead of in cash. Again, at this point, it is important to underline that it is necessary to make taxation arrangements for different payment methods that can be made on digital platforms³⁷. Otherwise, significant income losses may arise for the state.

Before the Law No. 7338 came into force, there were questions about whether the profits of social media content producers from brand and product promotion were taxable income, and if a taxable income was accepted, how it would be taxed. Because there was no regulation in the tax legislation regarding the content and taxation of the earnings of social media content producers. For this reason, an evaluation was made by looking at the general provisions in the taxation of income from these activities. From an income tax point of view, there was a debate about whether it should be included in commercial or self-employment earnings from the seven earnings elements³⁸. While some argued that self-employment should be considered as income because it is based on personal work and savings rather than capital, and is realized without being subject to an employer, others stated that the income obtained should be

³⁶ **Gözen Bozdoğan/Bayramoğlu**, pp.834-835.

³⁷ **Ergün, Yücel** (2022) "Sosyal Medya İçerik Üreticilerinin Vergilendirilmesi", *Legal Mali Hukuk Dergisi*, V:18, I:206, p.399.

³⁸ **Durdu**, p.475; **Kahrıman**, p.47.

considered a commercial activity, since the activity is essentially an advertising activity³⁹. The tax administration, on the other hand, stated that the earnings of social media content producers such as Influencer and Youtuber will be commercial earnings, regardless of whether they are incidental or not⁴⁰. This view also led to the emergence of some other obligations such as being subject to VAT, keeping books and filing returns⁴¹.

In practice, it is not considered reasonable for people who earn a small amount of income to be subject to obligations such as keeping a book, issuing declarations, issuing documents and invoices regarding commercial activities by considering their income within the scope of commercial earning⁴². In addition, the revenues obtained through digital platforms in social media do not require capital intensity of the activity, rather than commercial gain, and are more based on personal work, scientific, and professional knowledge. Therefore, the opinion of the Revenue Administration was criticized on the grounds that it should be accepted as self-employment earnings⁴³.

In accordance with Article 2 of the Law No. 7338 and Article Repeated 20/B of the Income Tax Law⁴⁴ No. 193 *“The earnings of social content producers who share content such as text, images, audio and video over social network providers on the internet, and the earnings of those who develop applications for mobile devices such as smartphones or tablets, through electronic application sharing and sales platforms are exempt from income tax.”* significant change was made.

³⁹ Demirci Çakıroğlu, p.72; Gözen Bozdoğan/Bayramoğlu, p.832; Yavan/Sever, pp.1335-1336.

⁴⁰ Durdu, p.481; Gözen Bozdoğan/Bayramoğlu, p.832.

⁴¹ Kahrıman, p.48.

⁴² Sağlam, Erdoğan (2021) “Sosyal Medya İçerik Üreticiliği ile Mobil Cihazlar İçin Uygulama Geliştiriciliği Kazançları Gelir Vergisinden İstisna Ediliyor”, t24, <<https://t24.com.tr/yazarlar/erdogan-saglam/sosyal-icerik-uretiligi-ile-mobil- cihazlar-icin-uygulama-gelistiriciligi-kazanclari-gelir-vergisinden-istisna-ediliyor,32688>> I.a.d.13.03.2023.

⁴³ Günsel Sürücü, Beyza (2021) “Son Gelişmeler Işığında Sosyal Medya İçerik Üreticileri Kazançlarının Vergilendirilmesi”, Erdem & Erdem, <<https://www.erdem-erdem.av.tr/bilgi-bankasi/son-gelistmeler-isiginda-sosyal-medya-icerik-uretilicileri-kazanclarinin-vergilendirilmesi>> I.a.d. 13.03.2023.

⁴⁴ Official Gazette of the Republic of Türkiye, N:10700, D:06.01.1961.

Moreover, taxation of the income of those who develop applications for mobile devices such as smartphones or tablets is also included in the exemption.

In order to explain how the law will be implemented, the Income Tax General Communiqué Serial⁴⁵ No. 318, which includes the principles and procedures regarding the exception, has been published. When the provision of the law and the Communiqué are evaluated together, the regulation includes the following issues⁴⁶:

- Both full and limited taxpayers can benefit from the scope of the exception.
- The fact that the beneficiaries of the exemption deal with other works outside this scope does not prevent the benefit of the exception.
- Those who want to benefit from the exemption must apply to the tax office authorized to levy in their place of residence and obtain an exemption certificate.
- In order to benefit from the exemption, an account must be opened in banks established in Türkiye and all revenues related to these activities must be collected only through this account.
- The information of the opened bank account must be reported to the authorized tax office by the taxpayer within 1 month.
- Banks are obliged to withhold income tax at the rate of 15% as of the date of transfer, on the amount of revenue transferred to the accounts opened in this context, and to declare and pay in accordance with the principles in Articles 98 and 119 of the Law.
- Delivery and services subject to income taxed within the scope of the regulation are also exempted from VAT.

⁴⁵ Official Gazette of the Republic of Türkiye, N:31717, D:12.01.2022.

⁴⁶ **Kahrıman**, pp.49-50; **İnsel, Fırat** (2022) “Sosyal İçerik Üreticiliğine İstisnasının Yeni Tebliğ Işığında Bir Bakış”, Muhasebetr, <<http://www.muhasebetr.com/yazarlarimiz/firatinsel/010/>> I.a.d. 10.03.2023.

- Beneficiaries of the exemption will not submit a declaration, and if they also file a declaration for other incomes, they will not include the income they have obtained under this exception in their declarations.
- If the income obtained from the activities within the scope of the exemption exceeds the fourth tranche of the tariff written in Article 103 of the Income Tax Law (this amount is 1.900.000 TL for the year 2023) or if the exemption conditions are eliminated or violated in the current year, the right to exemption will be removed. In this case, taxpayers will file an annual income tax return for all of their earnings.
- With the law, the President has been given the authority to reduce the withholding rate to zero for each type of activity, and to re-determine it by increasing it up to one fold. The Ministry of Treasury and Finance has also been given the authority to determine the procedures and principles regarding the implementation of the article.
- Taxpayers have the right to waive this exception by applying to the tax office at any time, if they wish.

As a result, taxpayers whose earnings exceed the determined limit, if it is determined that the conditions regarding the exception are not met, the tax accrued incompletely is collected together with the default interest by deducting the tax loss penalty. At the same time, with the Law No. 7338, the VAT Law⁴⁷ No. 3065 on social media revenues was amended and an exception was introduced. With the regulation made, the phrase “delivery and services subject to taxed earnings within the scope of Repeated Article 20/B of the same Law” was added to Article 17/4/a of the VAT Law. With this regulation, delivery and services subject to earnings that are taxed through withholding and exempt from income tax are exempted from VAT⁴⁸.

⁴⁷ Official Gazette of the Republic of Türkiye, N:18563, D:02.11.1984.

⁴⁸ **Günsel Sürücü, Beyza** (2021) “Son Gelişmeler Işığında Sosyal Medya İçerik Üreticileri Kazançlarının Vergilendirilmesi”, Erdem & Erdem, <<https://www.erdem-erdem.av.tr/bilgi-bankasi/son-gelistmeler-isiginda-sosyal-medya-icerik-ureticileri-kazanclarinin-vergilendirilmesi>> I.a.d. 13.03.2023.

B. TAXATION OF NATURAL PERSONS SELLING GOODS THROUGH SOCIAL MEDIA

One of the most important changes that the internet has brought about in our daily lives has been the change in our habits of purchasing goods and services. Thanks to the internet, we can now do our shopping from markets, shops and shopping centers without moving from our place in the virtual environment⁴⁹. E-commerce, which is carried out thanks to the internet, did not allow companies that only pay income tax or corporate tax and have a certain organizational structure to sell their goods or services by taking advantage of this opportunity. Apart from this, it has also enabled natural persons who want to sell the goods they produce without opening a workplace and mostly at home or in very small production places, to sell goods and services. Natural persons, who are not income and corporate taxpayers and who mostly sell goods that they manufacture at home, can sell these goods through a website they will establish, or by using social media tools. Establishing a website, keeping this site up-to-date, adding a virtual pos device or similar credit card payment tools to this site will require professional IT (informatic specialist) support, and this will lead to increased production costs. Therefore, it will lead to the sale of the subject goods at a higher price. This high price will have a natural result, such as a decrease in sales. However, it is possible to bring all these processes for free by using social media tools. In recent years, natural people who mostly sell the goods they manufacture at home prefer this way in their sales⁵⁰.

In recent years, many legal regulations have been made on the control and taxation of e-commerce over the internet. Approaching the problem primarily with the concept of workplace, the Ministry of Treasury and Finance stated that the internet communication address used for sales in the electronic environment will be accepted as a workplace. As a matter of fact, a ruling⁵¹ on this issue has been

⁴⁹ **Durlanık, İhsan/Yıldırım, Naci** (2020a) “İnternet Ortamında Yapılan Satışlarda Esnaf Muafiyeti Uygulama Alanı Genişliyor: GVK Madde 9/10”, Vergi Raporu Dergisi, I:255, p.29.

⁵⁰ **Kahriman**, pp.50-51.

⁵¹ İstanbul Tax Office Directorate, N:B.07.1.GİB.4.34.16.01-120[37-2012/271]-2728, D:06.09.2012.

approached by referring to the provision of Article 156 of the Tax Procedure Law⁵² No. 213, titled “Workplace”. The website is considered a workplace for those who sell clothes, buckles and various accessories that they have designed at home on the internet⁵³. The fact that the internet is accepted as a workplace with such a broad approach of the Ministry of Treasury and Finance has revealed a situation such as the taxation of low-amount sales made over the Internet by people who do not have an obligation or benefit from the tradesman exemption. For example, Subparagraph 6 of the first paragraph of Article 9 of the Income Tax Law No. 193 regulates the tradesmen exemption. Since one of the conditions of the tradesman exemption was not opening a business, even if the housewives made low amounts of sales over the internet, these people were considered to have opened a business, and this situation eliminated the opportunity to benefit from the tradesman exemption⁵⁴. This negative situation has been brought under a legal regulation with the Law No. 7256 on the “Restructuring of Certain Receivables and the Amendment of Some Laws⁵⁵”. With the 15th Article of the Law No. 7256, a new Subparagraph (10 numbered) has been added to the first paragraph of the 9th Article of the Income Tax Law, titled tax-exempt tradesmen, following the (9 numbered) clause. With the aforementioned new clause, income tax exemption has been granted to those who sell the goods they produce in their homes on the internet and similar electronic media, under certain conditions. With this regulation, “*the ones who sell the goods*

⁵² Official Gazette of the Republic of Türkiye, N:10705, D:12.01.1961.

⁵³ **Demirci Çakıroğlu**, p.72; **Şen, Mustafa** (2018) “İnternette Satış Yapmak İsteyen Firmaların Sanal Mağazalardan Sanal Alan Kiralanması”, Vergi Raporu Dergisi, I:224, p.119.

⁵⁴ However, the tradesman exemption is an application that serves the understanding of being a social state and, in parallel, to ensure tax justice, when the basic characteristics of the beneficiaries of this exemption are considered. It is seen that the beneficiaries of the exemption generally earn a limited amount of income and this income is only sufficient to provide for their own living. The tradesmen exemption is mainly based on the purpose of economic, fiscal, and social protection of those with very low income levels (**Durlanık, İhsan/Yıldırım, Naci** (2020b) “Teknolojik Gelişmeler Işığında Esnaf Muafiyeti Uygulaması”, Vergi Raporu Dergisi, I:253, p.127; **Kahriman**, p.51; **Sarioğlu, Sinan** (2020) “İnternet Üzerinden Yapılan Satışlarda Esnaf Muafılığı”, Vergi Dünyası Dergisi, I:461, pp.75-76; **Şenyüz, Doğan/Yüce, Mehmet/Gerçek, Adnan** (2023) Türk Vergi Sistemi, 20. Baskı, Bursa, Ekin, pp.46-47).

⁵⁵ Official Gazette of the Republic of Türkiye, N:31307, D:17.11.2020.

they produce in their houses over the internet and similar electronic media without opening a separate workplace and without using industrial type or mass production machines and tools” are considered tax-free tradesmen.

Those who fall within the scope of the tradesman exemption can benefit from the application with an easy application that they can make through the interactive tax office without going to the tax office. In this way, citizens can sell the products they produce in the electronic environment without being under the pressure of any tax liability, even by employing workers if they want. However, these citizens are required to open a commercial account in banks established in Türkiye and collect all revenues through this account. Thus, they benefit from the exemption according to the amount of income they earn⁵⁶.

Regarding this legal regulation, the Revenue Administration has published the Income Tax General Communiqué Serial⁵⁷ No. 314. The clause 10 added to the first paragraph of Article 9 of the Income Tax Law and the Income Tax General Communiqué Serial No. 314 are evaluated together. The features of the regulation regarding the exemption of tradesmen in the sale of goods produced at home via the internet can be listed as follows⁵⁸:

- With this regulation, those who sell the products they manufacture in their homes on electronic media without opening a separate workplace and without using machines and tools capable of industrial or mass production are considered tax-free tradesmen.
- The date of 01.01.2021 has been determined as the beginning of the regulation.
- Those who sell products such as towels, covers, sheets, socks, carpets, rugs, woven products that they produce with their own handiwork at home, without opening a business, will benefit from the tradesman exemption.

⁵⁶ **Durlanık/Yıldırım** (2020a), p.37.

⁵⁷ Official Gazette of the Republic of Türkiye, N:31470, D:30.04.2021.

⁵⁸ **Kahrıman**, pp.52-54; **Sarılı, Mustafa Ali** (2021) Türk Vergi Sistemi, 8. Baskı, Ankara, Hermes, pp.42-43; **Tosuner, Mehmet/Arıkan, Zeynep/Bay, Hakan** (2022) Türk Vergi Sistemi, 26. Baskı, İzmir, Kanyılmaz, pp.75-78.

- These goods must be produced without the use of industrial or mass production machines and tools, excluding sewing, embroidery, food processor, ironing and similar machines and tools used at home.
- The production of these goods must be produced without employing outside workers, sold without opening a workplace, and must not be sold by following the market for these products.
- It is important that those who will benefit from this exemption are not subject to income tax due to their commercial, agricultural, or professional income. The activity should not be carried out in a way that is dependent on income and corporate taxpayers.
- Those who want to benefit from the exemption must apply to the tax office in their place of residence and obtain a “tradesman tax exemption certificate”.
- With the tradesman tax exemption certificate, a commercial account must be opened in banks established in Türkiye and all revenues must be collected only through this account.
- Banks will withhold income tax of 4% on the amounts transferred to these commercial accounts as of the date of transfer. At the same time, they will declare and pay the taxes withheld on the amounts transferred for a month, in the following month, in accordance with the principles of Articles 98 and 119 of the Income Tax Law.
- In cases where the persons benefiting from the tradesman exemption employ one or more workers, the withholding rate will be applied as 2%. In order to apply the reduced rate, one worker must be employed for at least ten days per month⁵⁹.

⁵⁹ Those who want to benefit from the reduced withholding rate will notify the banks that they have opened a commercial account, together with the supporting documents obtained from the Social Security Institution, that they employ workers in their activities. The dismissal or departure of the employed worker will also be notified to the relevant banks. Unless a notification is made that the employee has quit the job, the discounted withholding will

- The total amount of sales obtained within the scope of this paragraph must not exceed the annual gross amount of the minimum wage valid for the relevant year. For the year 2023, if the total amount of sales exceeds 120,096 TL, the taxpayer will be real taxation system way from the beginning of the following calendar year and will not be able to benefit from this exemption again⁶⁰.
- In case more than one product is manufactured and sold over the internet and similar electronic media, the condition that the revenue obtained does not exceed the amount valid in the relevant year is considered. This system is considered in terms of the total revenue obtained from all products, not separately for each product type.
- Those who benefit from the tradesman exemption are required to update their status by applying to the tax offices authorized for assessment every three years.

As a result, it is very important to ensure that those who manufacture products that are produced at home and require intensive manual labor, especially housewives, participate more in the working life and national economy. With the regulation, more active participation of the female workforce in employment, which is not possible to directly participate in the workforce due to Türkiye's social structure, has been ensured⁶¹. In particular, the legal environment for housewives to contribute to the productivity of the economy has been provided. Thus, it helps to increase the tax compliance capacity of both the tax administration and the taxpayer by bringing simplicity and simplicity to the taxation of those who sell low amounts over the internet.

continue in the periods following the notification date. Banks will withhold tax according to the notification status made to them. Tax-exempt tradesmen are responsible for the deficient withholding due to informing that they are employed even though the worker is not employed for more than ten days in the relevant month, or due to not reporting that the employed worker has quit the job (Income Tax Communiqué Serial No. 314).

⁶⁰ **Gelir İdaresi Başkanlığı** (2023) "Evlerde Üretilen Ürünlerin İnternet Üzerinden Satışında Esnaf Muaflığına İlişkin Rehber", Yayın No:452, Mükellef Hizmetleri Daire Başkanlığı, p.6.

⁶¹ **Durlanık/Yıldırım** (2020b), p.135.

C. TAXATION OF TRANSFER OF SOCIAL MEDIA ACCOUNTS TO HEIRS

Today, although the rate of social media usage over smartphone applications exceeds the rate of social media use over computers, social media platforms are no different from basic websites. Social network users have activities such as video-photo sharing, information-document sharing, making statements, messaging, playing online games through these platforms. Users act of their own volition while engaging in such interactions through their own social media accounts⁶².

It is clear that social media accounts are used for data transmission purposes. Thus, people today use social media for different purposes, making it and the accounts they use to access it a part of their lives. Indeed, people use their social media accounts for both socializing and trading. In this way, the differentiation of social media accounts according to their intended use may also be important in passing them on through inheritance. Because, while the transfer of a social media account used for commercial purposes may constitute the transfer of the commercial enterprise by inheritance, there is no certainty about how the transfer of the social media account used for the sole purpose of socialization will take place. For this reason, it is important to examine the purposes of social media accounts and to classify them according to their intended use⁶³.

First of all, the concepts of digital assets and digital inheritance are not concepts that have taken their place in our legal language yet. There are these concepts that have just started to be used in Türkiye and the legal problems they cause⁶⁴. There is only one concept and perception of assets in the legal system, which is generally used in the sense of “rights that protect the material interests of individuals⁶⁵”. However, with the developing technology, it is seen that the

⁶² **Altındal, Hasan/Arslan, Yusuf Enes** (2021) “Türk Hukukunda Dijital Miras: Karşılaşılan Sorunlar ve Uluslararası Uygulamalar Çerçevesinde Bazı Çözüm Önerileri”, Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi, V:25, I:1, p.322.

⁶³ **Yılmaz/Erkan**, p.576.

⁶⁴ **Altındal/Arslan**, p.321.

⁶⁵ **Erdoğan, İhsan/Keskin, A. Dilşad** (2018) Türk Medeni Hukuku, Ankara, Gazi, pp.116-117.

concept of digital assets has started to take place in the legal language gradually. Since the legal system of each country generally changes and takes shape according to the changing needs of the society, it is not possible to foresee a problem that did not exist before and to set rules accordingly. The problem of digital inheritance is an example of this⁶⁶. The most important problem encountered in the transfer of social media accounts to heirs is the inability to identify the digital assets of the legator and the inability to access the necessary security keys to access these digital assets. Especially in social media, due to the fact that people open accounts with different names (nick names), it becomes difficult both to determine the accounts of the legator and to establish the relationship between these accounts and the legator. In addition, it is another problem that the security keys requested at different levels for other digital assets required for accessing and using social media accounts are not determined or that the heirs do not have this information. Today, different applications such as face recognition, voice command and 2-step verification have been developed apart from user name and password in order to ensure data security and provide access to digital assets more effectively. Due to these practices, some difficulties may be experienced in the transfer of social media accounts to heirs⁶⁷.

Until a legal regulation is brought or a stability is ensured by judicial decisions, a solution can only be produced through interpretation. As a result, there is no doubt that the accounts opened and used for financial gain will be transferred to the heirs. Because today, the heirs still have the opportunity to earn financial income from such accounts. It is also possible for the heirs who do not want to continue this work of the legator, to gain financial gain by selling these accounts. Therefore, such digital asset values must be passed on to their total subrogation. On the other hand, social media accounts that are used only for personal purposes should also be considered as a special memory item such

⁶⁶ **Maraşlı Dinç, Yasemin** (2019) "Ölümünden Sonra Sosyal Medya Hesaplarının Hukuki Akıbeti: Dijital Miras", *TBB Dergisi*, I:142, p.285.

⁶⁷ **Altındal/Arslan**, p.344.

as letters and diaries, and such accounts should be passed on to legal heirs. For example, the decision⁶⁸ of the German Federal Court is in this direction. Social media accounts that have a mixed nature, that is, used for both personal purposes and financial income, should first be passed on to the heirs. Because in such accounts, both the property of being a special memory and providing financial income exist together⁶⁹.

There is no clear legal regulation as to whether the social media accounts in question can be passed on to the heirs, that is, whether digital inheritance is possible or not. However, based on the Inheritance and Gift Tax Law⁷⁰ No. 7338 social media accounts transferred in this way must be subject to inheritance and gift tax. For this, first of all, social media accounts must be accepted as a “right”. However, it is foreseen that there will be some problems in taxation. The main reason for these problems is that digital heritage and all data on the internet cannot be put into a certain pattern and do not have a principle⁷¹. In addition, after it is accepted as a right, valuation procedures should be carried out by the commissions established by the tax office and the base for inheritance and gift tax should be established in this way. In our legal system, there is no regulation on this subject yet. However, there is a need for such an arrangement suitable for the digital age. In addition, it is suggested that the arrangement to be made should be in a way that does not cause conflict between the law of inheritance and the Law⁷² on the Protection of Personal Data No. 6698⁷³. Personal data protection law regulates that personal data cannot be processed, transferred or accessed by other people without their consent. Personal data is heavily on social media platforms. Social media companies are also obliged to preserve data in their systems in accordance with data protection legislation. This situation

⁶⁸ BGH, Urteil vom 12.07.2018- III ZR 183/17- Berlin.

⁶⁹ **Maraşlı Dinç**, p.286.

⁷⁰ Official Gazette of the Republic of Türkiye, N:10231, D:15.06.1959.

⁷¹ **Bıyan, Özgür/Akçil, Çağla Gizem** (2018) “Dijital Miras ve Vergisel Boyutu”, Legal Mali Hukuk Dergisi, V:14, I:165, pp.2656-2657.

⁷² Official Gazette of the Republic of Türkiye, N:29677, D:07.04.2016.

⁷³ **Kahriman**, p.55.

causes a conflict between inheritance law and personal data protection law⁷⁴. In addition to the rapidly developing information technologies, legal rules cannot fully keep up with the speed in this process. In order to solve the problems, there is a need for the regulation of the legislation.

CONCLUSION

The scope and benefits of digital technology activities affect societies economically and socially. In addition to technological developments, the human factor is also important in the realization of a successful digital transformation. In the 21st century, it has become really difficult to regulate tax laws and to understand taxpayers and taxpayer earnings effectively and accurately. On the one hand, advanced technology and software make these processes easier, on the other hand, it becomes difficult to keep up with the pace of change in action and legally. Understanding newly emerging economic activities and revealing their tax dimension legally creates serious difficulties.

Social media has emerged with the development of the digital world and internet technology and has greatly influenced the whole world today. It is seen that income is generated in various ways thanks to new business models created by digital technologies and social media platforms. One of the main actors of new media is social media content producers. Social media content producers have not only shared their personal talents on these own pages. At the same time, they have turned social media into attractive channels where businesses can increase their competitive power, which is almost the golden rule of the digital age, and promote their products so that they can continue to exist.

The fact that the size of the economic developments in the field of social media has reached a serious size has revealed the necessity of taxation in this area. However, in the determination of the taxation issue, some difficulties arise in the current tax system and these need to be clarified first. Although the regulation on the taxation of the earnings of social media content producers

⁷⁴ **Yılmaz/Erkan**, p.583.

partially removes the uncertainty before the Law No. 7338, the question marks regarding the nature of the income in question have not been fully resolved. Although there is no clear regulation regarding the nature of the income in the text of the law, it is stated that the said activities are in the nature of commercial activities in the justification of the relevant Law. Therefore, as can be understood from the justification, the legislator accepts the understanding in the rulings issued by the Revenue Administration before the Law No. 7338. However, we are of the opinion that it is legally more correct to determine the nature of the said earnings as self-employment earnings. In addition, it is clear that the regulation could not fill some legal gaps. In case the exemption amount is exceeded, the fact that all of the income obtained is subject to income tax and the portion exceeding the exemption is subject to VAT will bring obligations such as bookkeeping and declaration for these taxpayers. In addition, it may harm the principle of justice in taxation. However, even if the exemption amount is exceeded with the income obtained, it would be much better to make taxation and establish liability by taking the said exception into account. Again, if the exemption amount is exceeded, the excess of the exemption will be subject to VAT, which may cause difficulties in technical implementation. Considering that VAT will start to be calculated after the part exceeding the exemption limit, it should be clarified what kind of VAT application should be made if the last delivery at the border is in an amount that cannot be divided.

When all these are taken into account, it can be argued that the issue is contrary to the principle of taxation according to fiscal power. What is fair is that the amount of income determined as the limit for the exemption is exempted for all taxpayers. With the regulation that came into force in Türkiye, those who sell their goods over the internet and similar electronic media are included in the tax-free tradesmen category, under certain conditions, and a simpler and more understandable tax legislation has been implemented. With the new regulation, easier taxation of said earnings, prevention of the risk of unregistered income and certainty in the eyes of taxpayers have been ensured.

Another issue is the taxation of transferring social media accounts to heirs. People can open accounts with their real identities on social media as well as

with nicknames. If the legator has opened an account with his/her real identity, it is possible to determine the relationship between the relevant social media account and the legator. However, in case of opening an account under a pseudonym, it is necessary to prove that the relevant account belongs to the legator. If all the aforementioned problems are resolved, social media accounts should be subject to inheritance and gift tax. For this, first of all, social media accounts must be accepted as a “right”. However, it is foreseen that there will be some problems in taxation. The main reason for these problems is that digital heritage and all data on the internet cannot be put into a certain pattern and do not have a principle.

As a result, it is obvious that those who earn income through social media can be taxed much more fairly after the mentioned deficiencies are eliminated. Considering that the law always follows life one step behind, it is seen that the legal system has difficulty in following current developments. Therefore, it is clear that in an order where the digital world has entered our lives, very comprehensive regulations are needed. The existence of legal norms that will guide people in the technological development processes, facilitate the work of the tax administration, and apply in disputes arising in the IT world will increase the confidence in the legal system.

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