AN ASSESSMENT OF LAW FACULTY STUDENTS' COMPREHENSION LEVELS OF THE LANGUAGE OF CORPORATE TAX LAW

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Abstract

The purpose of this study is to analyze the language structure of tax laws within the scope of ongoing tax complexity in the Turkish law system. Using the qualitative case-study research format, this study included 295 third and fourth year students at Kirikkale University Law Faculty in the spring term of 2015. Participating students were asked for synonyms/meanings of eleven terms which were selected from the Corporate Tax Law that came into force being prepared in the earliest time as a general qualified tax law among tax laws to test the students' knowledge of the language structure of the aforesaid law. The assessment showed that a substantial section of these Law students did not know the meanings of these words.

Keywords: Tax complexity, the Corporate Tax Law, Faculty of Law, language structure of laws

1. Introduction

Tax is an important financing and political instrument and requires effectiveness in taxation. Simplicity and clarity are essential elements of an effective taxation system. Simplicity aims to decrease the numbers of applications which make the tax system complex, to simplify these applications, and to make tax laws clear and understandable. The simplicity of the tax system encourages tax compliance, another element of effectiveness.

An important criterion for determining tax compliance is that tax legislation be clear and understandable, in other words, that the legislation language be plain. Complex and incomprehensible legislation is an important problem for all legal parties. The administration attempts to explain tax laws, which are prepared in an abstract and general way as a regulation form of concrete statements, with general communiques, this causes that a consultancy system specialized in these texts is revealed. Those providing consultancy services play an important role in the increase in tax loss and evasion by specializing in aggressive tax planning. This also erodes the tax base. Furthermore, it is likely that explicit and implicit costs of taxation also increase as consequence of not having simple and understandable legislation. Compliance problems occurring as a result of all these problems, increase the administrative and judicatory workload, and delayed or insufficient transitions of tax to the Treasury are taken place.

As legislation texts in the Turkish tax system are long and complex, and frequently subjected to changes, the system has become overly complex. The language structure used in Turkish tax laws reveals negative effects both in the tax compliance period and in terms of the simplicity principle. Considering the numbers of taxpayers and the group directly influenced by them, primary tax laws such as the Tax Procedure Law (1961), the Real Estate Tax Law (1970), the Law on Collection Procedure of Assets (1953), and the Income Tax Law (1960) reflect the understanding and technique of law making/writing and the language of the time period in which they were written. Moreover, even the Corporate Tax Law (2006) that is

a general qualified tax law written in the recent time, includes complicated expressions and words.

Efforts made to simplify tax legislation have increased in recent years and this aim is also frequently emphasized in political texts. However, while arrangements being completed to simplify the legislation were implemented by decreasing the number of subsidiary sources, such as communiques and regulations, no serious step has taken to simplify the legislative structure in terms of language and meaning.

2. Tax Complexity

Legality principle for tax is one of the tax principles. The legality principle is put into practice with the legislation process. In this respect, the structure of tax laws is an important indicator of system simplicity. However, the art of law making is not well known in Turkey and it is in question that laws enacted, especially in recent years in the Turkish Grand National Assembly, have mostly not been prepared well, not been handled in commissions adequately, are not comprehensive in terms of articles and general preambles, that attention has not been paid to the language used and that due diligence has not been exercised in general assembly negotiations (Tuncer, 2012: 330-331). As will be stated, this situation is an important cause of tax complexity.

Although it is difficult to clearly definition the tax complexity concept, it is possible to approach complexity in two basic ways. The first one concerns definitions about implementation and compliance costs that tax administration and tax payers encounter due to tax complexity, and the second one concerns definitions regarding the quality of the tax system or arrangements (Karabacak, 2013a: 17). Tax legislation has an important role in the analysis of tax complexity. However, analyses of the legislation are based on indicators that are far from sufficiency required to present the current situation in all their aspects, such as the length and number of laws, some observations such as law compliance periods, tax agreements etc., and even intuitions (Karabacak, 2013b: 40).

Karabacak (2013b) offered the first contribution to Turkish literature regarding measuring tax complexity with a study that assessed the participants' reading and comprehension of tax laws. Accordingly, it was shown that while participants had no problem with their reading skills, their comprehension and interpretation skills were problematic.

Studies in foreign literature suggested various complexity measurements. However, the common point of these studies was that the legislation is an important component in complexity measurements. For example, the United Kingdom developed an index to measure the relative complexity of parts of the tax system. The measurement performed according to this handled simplicity of the legislation as an important criterion. The complexity index of the tax system included issues such as political complexity, legislative complexity and implementation complexity (Scheme 1); legibility, and the number of pages of legislation that were examined in terms of legislative complexity (www.gov.uk).

James (2007) performed a complexity analysis for tax complexity and examined the structure of the legislation. It was reported that the structure kept as simple as possible was the key point of the tax system rather than the aim of it. Moreover, it was emphasized that there was a trade-off between simplification and other targets. (James, 2007: 15). On the other hand, as stated the above study, tax simplification was not an easy process and being entirely simple was unlikely to produce a good tax system. Thus, there is a trade-off between the process and simplicity to achieve the best (James, 2007; 15-16). Properly measuring other aims and targets, knowing which functions/tools are required for the desired situation, and the

facts of the tax system, are important in taxation. To achieve tax system simplification requires a comprehensive reform and permanent improvement (James, 2007: 17).

Scheme 1. *Tax complexity*
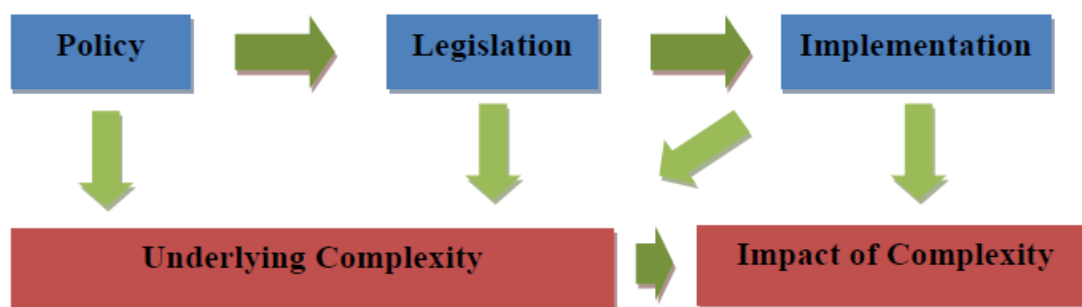
(Jones et al., www.gov.uk: 8).

According to the McKerchar (2007) study on tax complexity, political compromises can be directly linked to tax complexity; for example, as there is a national one chamber parliament in New Zealand, it went through a clearer and better process in achieving tax reform in comparison to Australia (McKerchar, 2007: 187). A simple political process is the prerequisite for a simple legislation and this is a golden rule and should not be ignored by those authorities performing this legislative mission. (McKerchar, 2007: 201).

Zelenak (2010) reported that tax complexity analysis which were performed in recent years failed. (Zelenak, 2010: 119). Unfortunately, complex provisions, especially in tax calculations, constitute bad tax policy and complexity for reasons except general calculation difficulties. While such provisions damage the democratic legitimacy of the tax system and the ability of taxpayers to comply who are involved in conscious tax planning, the system become a black box due to taxpayers (Zelenak, 2010: 118-119).

Tax complexity is one of the primary concerns of modern tax systems. Tax systems have become complex with the increase in numbers of taxable areas. While increasing tax complexity occurred in many countries, information asymmetry resulting from in question tax complexity has pushed up tax compliance costs. (Karabacak, 2013a: 16). In this context, the study focused on researching tax legislation – its language and fact – from past to present, and on creating a new thought and perception/demonstration area.

3. Method

This study on the measurement of legislation-based complexity used the qualitative case-study format. The case-study is an empirical research method that studies a current issue in its content and is used in cases when the limitations between the case and the content of the study are not prominently determined and there is more than one evidence or data source (Yin, 1994: 13 & Yildirim and Simsek, 2005: 277). However, it is also stated that the case study method can be a creative alternative to traditional approaches. (Zucker, 2009: 14). Likewise, the sole purpose of the case-study is to explore the current problem or case (Zucker, 2009: 4). In this way, within the scope of this study even partially aiming at determining the issue of tax complexity, the text in Table 1 was submitted to the participating students.

Table 1. *The text submitting to the participants*

> ... the profit of company in limited obligation includes the following earnings and incomes (**irat**):
> ... taxes that are not accrued in due time are considered as incurred loss (**ziyaa**):
> ... taxes collected by cut are not within the extent (**şümul**) of the exception practice:
> ... outstanding (**muallak**) claims reserve equaled to retention:
> ... institutions that dissolved (**infisah**) due to merging:
> ... shall be severally (**müteselsilen**) liable being limited with the precedent value:
> ... accrued taxes on behalf of the defunct (**münfesih**) institution in alienation and divisions:
> ... in exchange for sale, cession, and transfer (**temlik**) of all rights:
> ... unless it is certificated (**tevsik olmak**) with documents approved by their representatives:
> ... elimination act in additional (**ikmalen**) or ex officio (**re'sen**) assessments:

Within the context of the above-mentioned questions, the participating students were asked to specify what year were they in and to write down the meanings of the terms in bold which they knew. The participants were expected to write the stated meanings, or other statements or synonyms that could be accepted as correct. The answers expected were as follows:

i. *income* for "**irat**" (income)

ii. *disappearance* or *loss* for "**ziyaa**" (loss)

iii. *extent* for "**şümul**" (extent)

iv. *outstanding* for "**muallak**" (outstanding)

v. *dissolution* or *abolition* for "**infisah**" (dissolution)

vi. *several* for "**müteselsil**" (several)

vii. *defunct* for "**münfesih**" (defunct or dissolved)

viii. *transfer of a right* for "**temlik**" (transfer of a right)

ix. *certification* for "**tevsik**" (certification)

x. *completion* for "**ikmalen**" (completion)

xi. *ex officio* for "**re'sen**" (on its own motion)

4. The Study Group

The study group included 295 third and fourth year students at Kirikkale University Law Faculty in the spring term of 2015. There were total of 1.377 students studying at the Faculty during this period. Of the participating students, 172 and 123 reported that they were in the third and fourth years, respectively. The participants also received the Finance lesson in their second years and the Tax Law lesson in the third year and for this reason study questions were asked only of third and fourth year students. The gender variable was not taken into consideration as part of the study. The given answers were assessed as right or wrong. Some students (11 – 10 in third year and 1 in fourth year) did not give answers despite writing down their names and were therefore not subjected to assessment. Of the answers subjected to assessment; 162 belonged to third year students and 122 belonged to those in fourth year. The total student number assessed was 284. On the other hand, words left blank among the

answers were regarded as wrong on the assumption that the students did not know their meanings.

5. Findings

The study results showed that the Law Faculty students' knowledge levels of the meanings of the selected words in the stated law were found to be low in some terms.

Table 2. *The number of participants' answers*

4th Year											
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**
R	41	33	45	89	82	71	81	104	70	75	69
W	81	89	77	33	40	51	41	18	52	47	53
3rd Year											
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**
R	42	31	38	101	93	70	80	129	68	83	80
W	120	131	124	61	69	91	82	33	94	79	82

As can be seen in Table 2, the participants gave wrong answers especially for the meanings of words that are not commonly used. It was found that a major portion of the participating students did not know the meanings of terms frequently used in tax legislation / literature such as "**ikmalen** (completion)", "**re'sen** (ex officio)", "**irat** (income)", "**müteselsil** (several)." It was remarkable that fourth year students did not know the meanings of terms used in tax laws, as well as some other laws. According to the study findings, the values received from the vocabulary knowledge of students, especially in fourth year, led the researchers to conclude that Turkish tax legislation has increased tax complexity. On the other hand, given that the students graduated from the Law Faculty will live their lives as judges, prosecuting attorneys and lawyers, it is obvious that they will have difficulties in respect of having a good command of the tax law in both their internship periods and professional processes.

6. Evaluation

Complex tax legislation causes tax loss. Understanding and complying with the aggregation of legislation and implementing it accordance with the law is difficult and tax loss and evasions stemming from inadequately understanding the legislation have become inevitable (Karakoc, 2004: 104). When simple and understandable, legislation decreases illegal opportunities, and reducing the tax loss can be possible through the simplification of tax legislation. 332). Likewise, it is unlikely that a law that is not understood will be properly interpreted and implemented. Having many tax laws and not linking them and making them function together causes complexity (Karakoc, 2004: 94). On the other hand, legislation that frequently changes, is hard to monitor, has internal contradictions, and creates new formalities with every change, increases compliance costs of tax payers, and the taxpayers

who have increased compliance costs put a strain on the grey economy and ultimately head for tax evasion (Kirbas, 2012: 15).

Increase in voluntary tax compliance and the simplification of tax legislation are elements that are frequently emphasized and targeted in texts, such as emergency action plans and budget justifications of current and past Government programs.   However, there is no comprehensive study, in both bureaucratic and academic areas, and no step has been taken apart from mentioning the need for the simplification of laws in terms of language and content. Studies have generally been short and limited. It is remarkable in tax law that there is an inconsistent and complex legal language beyond a fact that can be supported with arguments, such as "the language of law should be different from the ordinary language" and "writing law has a unique structure." However, it is understood that due importance is not given to linguistics while writing a law, nor is the process of writing supported by linguistic scientists.

Tax laws are texts concerning the whole society, so they should be in a clear and simple structure that each citizen can understand (Karabacak, 2013b: 39) Moreover, terms that are not known, even by Law Faculty students, reveal the need for the language structure of tax laws to be filtered by being handled efficiently. A study reported that taxpayers with a high level of education had a lower tendency to tax evasion because of their conscious attitudes about the economic and social functions of taxes (Saracoglu, 2008: 31). As for researchers, maintaining continuity of the said tendency and spreading it to the whole society, in other words to all taxpayers, can be possible by rescuing the system from complexity. The simplification of the legislation/language of legislation that is among reforms to be accordingly carried out, takes place in absolute conditions.

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