



The British Tax System and Taxpayers Rights from Magna Carta to Our Time

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ABSTRACT

While today the tax payers' rights phenomenon is being discussed in many countries, it came to order in the UK long ago with Magna Carta in 1215. The taxpayers liability to provide the state with a part of their income due to taxation has led to the concept of taxpayers rights and caused world history to witness many combats in this context.

States enforce duties and liabilities for taxpayers while utilizing the taxation authorization. However, it is quite important that the authorization is used within the framework of particular legal rules and taxpayers are aware of their rights while fulfilling their obligations in terms of voluntarily accomodating to tax and increasing the full collection of tax revenues on time.

Keywords : Tax, Tax Payers' Rights, British Tax System

Introduction

While tax payers's rights as a very important progress for tax payers were based on a legal ground in many countries not long ago, it can be said that this concept came to the fore in England a very long time ago when Magna Carta is taken into consideration as a declaration of rights and freedom which restricted the authorization of the king for first time in history, in 1215. While taking place in history as a significant starting point in the development process of democracy, together with reform and renaissance, this declaration has contributed to social awareness and the possibility of state decisions to be called into question.

States saddle their citizens with responsibilities while using their taxation authorization in order to finance public expenditure. However, in order to encourage tax payers to voluntarily accommodate themselves to tax and collect tax revenue on time and intact, it is quite important that this taxation authorization is utilized within the framework of particular rules and the tax payers are aware of their legal rights while meeting their liabilities.

In order to finance public services, Her Majesty's Revenue and Customs (HMRC) has determined its mission as providing proper service to individuals, families and organizations based on mutual trust with the aim of protecting the tax payers' rights and the rules they have to obey during the collection of taxational liabilities determined by the parliament.

In the study, first of all, general information on English Tax System will be given and then in the historical framework from Magna Carta in 1215 to present, the development of tax payers' rights provided by tax office and tax payers' liabilities against tax office will be explained together with a general evaluation.

Historical Perspective on English Tax System and The Development of Tax Payers' Rights

English Tax System has a characteristically non-static form. It means that various modifications can be made to taxation depending on any increase in public expenditure or various economic development. However, those modifications have caused some insurgency throughout history and they had some serious consequences.

When the historical process regarding tax and taxation is investigated, it is seen that even in the very first treaties on

human rights, rights regarding taxation were fought for. The individuals' legal obligation to give a portion of their income to the state because of taxation has caused the concept of tax payers' rights to occur and the world history to witness so much controversy.

Magna Carta signed in 1215 between rebel barons and John The King of England and brought some liberty to barons and the church has remained as a very significant charter throughout the history since being the symbol of resistance against oppression and generating liberty and autonomy. Magna Carta is the first written charter of human rights in the world. In this charter, there are some clauses regarding tax and taxation.

It says that, (Magna Carta Libertatum, <http://avalon.law.yale.edu>)

"-No 'scutage' or 'aid' may be levied in our kingdom without its general consent.

"-All merchants may enter or leave England unharmed and without fear, and may stay or travel within it, by land or water, for purposes of trade, free from all illegal exactions, in accordance with ancient and lawful customs."

With the clauses mentioned above, The king's taxation authorization was restricted for the first time in history.

It was accepted in this charter that only general assembly was authorized for taxation. The principle that no taxation without representation was subjected by these clauses but afterwards the authorization to tax was utilized by parliaments instead of general assemblies.

Since The UK is an island, the first attempts to tax in history were started against smugglers, but later, it was decided to separate the taxation of foreign trade from the taxation of local people on the island for additional revenue. Lord High Chancellor was killed by mafia during Wat Tyler rebellion caused by poll taxes applied in 1381 (<http://en.wikipedia.org>).

This tax required five pounds to be collected individually and it became such a burden for peasants since it was collected in cash. The rebellion peasants sneaked in through the city gates with the help of their acquaintances and set fire on the government house where the tax archives were reserved.

Upon this event, the king intended to provide social comfort and revoked poll taxes in 1382. (<http://www.tarihcininyeri.net>.)

After Magna Carta, an act provided another democratic right was The Bill of Rights. In 1688, visions and demands of all revolts from the most moderate to the most extremist and democratic ones were conveyed by manifests and charters. According to The Bill of Rights passed in 1689 (Browning, 1953:126),

-Collecting tax in any way and any time other than the one determined by parliament for the benefit of the throne,

-Collecting tax in a different manner and for a longer period of time than approved by the parliament with an excuse for privilege is illegal.

As can be seen and as it is explained in The Bill of Rights, taxation is submitted to the parliament's approval and arbitrary applications were objected.

A kind of tax called land tax was the most important state revenue in The UK from the beginning of 17th century to the beginning of 19th century.

(http://en.wikipedia.org/wiki/Taxation_in_the_United_Kingdom).

England adopted Gregorian Calendar in 1752 instead of Julian Calendar and in this period there were still various revolts. Income Tax applied in 1799 for the first time to finance Napoleonic Wars was revoked in 1816 after Waterloo War. Nevertheless, from 1842, the income tax was applied again to finance increasing state expenditures. (Allen, 1991).

At the beginning of 1990s, the subject for whether tax payers' rights should take place in local authorities in addition to general laws was become controversial. (Rights Of Special Tax-Payers, 1903:360-361).

Corporate tax law was included in tax system for the first time in 1965 and afterwards in 1970, it was consolidated as income tax and corporation taxes.

From the end of 1970s, some serious and significant legal arrangements were made in English tax system. The main theme in these arrangements was to increase consumption tax while decreasing income tax. Basic consumption tax rates in 1979s was ranging between 8 percent and 15 percent while it was up to 17,5 percent at the beginning of 1990s. Sales taxes on alcohol, tobacco and oil products increased dramatically. Although income tax burden on tax payers was 33 percent in 1978-1979, it decreased down to 24 percent in 1996-1997. (Gale, 1997:756).

Some criticisms were made of inequality in income distribution when the increase in insurance premium is taken into consideration particularly because of the progress towards taxation trend from indirect taxes to direct taxes in 1980s and 1990s. (Clark, Leicester, 2004:157)

One of the recent responses to taxation was that in 1990 in Margaret Thatcher period when poll tax was applied instead of one of the fundamental revenue sources of local authorities which was domestic rates. Thatcher resigned since this tax being brought forward during gulf crisis was perceived to be a source to finance the navy and it was believed that the new tax would cause the amount of substituted one to ascend by increasing the tax burden on tax payers.

(<http://www.tarihcininyeri.net/forum/index.php?topic=2166.0;wap2>).

Although the sovereign right of Parliament of The UK was considered as the sovereign right of the state, in the period when poll taxes were tried to be applied, the vision of the opposition and the minority was taken into consideration and this

laid the groundwork for such a resignation. (Klug, 2007:2).

A tax system should be as neutral as it can be. In a framework called neutral tax, it is desired to reduce the excessive burden on tax payers to minimum and establish a tax system with minimum side effects which would not influence individuals' decisions. (Walker, 1979:173-175). It has been displayed that taxes have such significant effects on both carrier choices and companies' decisions on who to employ. (Briscoe, Dainty and Millett, 2000: 596).

While those with standard income are taxed at four different kinds of rate, capital gains tax on dividend and saving sourced revenues are applied separately to each kind of income. The total amount of various taxes on labour income under different names constitute almost 66 percent of revenues. (Meakin, 2012:35).

In controversies over the case that companies like Starbucks in The UK use legal loopholes and methods to avoid tax for almost no tax payment and that public expenditures are financed by heavy taxes paid by workers, it is pointed out that the trouble is not that workers pay very little tax but the government makes high public expenditures. (Duncan, 2012:1).

In our days, when their individual taxes and social security withholdings are taken into consideration, tax payers with an income of 125,000 GBP or above have to assign 60.8 percent of their incomes to the state in which case it is the ninth country with the heaviest tax burden among 26 industrial countries. (The Telegraph, 2012:1).

Criticisms of the tax system structure and its complexity in the English tax system can not be ignored. However, it is a fact displayed by various studies that tax administration's approach is so important to make tax payers meet their tax obligations voluntarily. (Kay, Mervyn, 1990).

The Tax Payers' Rights and Liabilities in English Tax System

Human rights are the rights people have just because they are human and these rights are immune, inalienable and indisputable.

Today, it is seen that human rights stand out due to globalization and the change in social structure. Tax payers' rights that individuals should have while taxation also can be considered as a kind of human rights due to taxation. In this framework, in recent years, some information offices have been established and informational brochures have been prepared. (Yurtsever, 2010: 334).

In addition to the protection of individuals against public authorities with fundamental rights improved and approved in the last century and tax administrations acceptance of concepts such as tax payer's rights and tax payer focused taxation, it is achieved that individuals are no longer unprotected from public authority but they have some particular opportunities. (Er, 2011:4).

In modern tax systems, the controversy over human rights based on mutual trust and understanding on an institutional platform and their protection should be provided in order to improve cooperation with tax payers and achieve tax voluntary compliance. (Ishimura, 1997:166).

Tax payer's rights should be analyzed by taking freedom of conscience and belief. (Jinyan, 1997:83). Because of the increase in tax burden, in all countries, issues occur between tax administration and tax payers from time to time and force-based strategies for taxation are abandoned. In this process, the changing needs of tax payers and states necessitate new structuring for tax payers at tax administrations. (Çetin, Gökbuğar, 2010:23). For example, since the end of 1990s Australian Tax Administration attempted to take precautions to create a culture of tax voluntary compliance. Because tax is compli-

cated and consists of some controversial explicit provision. Accordingly, it is possible that tax payers might tend to avoid tax. In order to prevent this, tax payers' right should be improved and tax voluntary compliance should be achieved. (Braithwaite, 2002:1).

It is inevitable that there is always tension between the desire of state to boost tax revenues and the tax payers' reluctance to pay taxes. (Freedman, 2004: 334). Tax payers make more effort to obey the law as long as they perceive that their fundamental rights are respected. According to a report prepared by OECD, tax payers were given some rights in all OECD countries, however only in few countries those rights were announced by charter of rights. After the report was published, many countries began to publish a charter of rights. (OECD, 1990:10).

Tax administration should be well organized depending on how complex the tax system is. In order to reduce the tax tension due to this complexity, tax auditors give the tax administration notice to help tax payers become conscious of their rights and obligations. (Carl, 1961:1). Office of Tax Simplification has been established in the UK for the purpose of taxation law to be simple and intelligible. Office of Tax Simplification is an office started operating in 2010 and an independent office of the ministry of finance. Its mission is to give advice to the government on tax simplification and to assemble tax experts, businesses and other parties. (Tax Revenue Administration, 2012:23) .

Another important topic about tax payers is whether some information about tax payers should be disseminated or not. Although it is seen that such information is not disseminated due to tax confidentiality, it is also expressed that some important information should be disseminated by HMRC for the sake of transparency and accountability. (Osita, 2012:225). However, there are some visions suggesting that governments should take notice of their breaching of tax payers confidentiality by permitting the dissemination of informations about tax payers through multilateral agreements between countries. (Cockfield, 2010:419-471).

Public sector European Foundation for Quality Management granted Scottish Internal Revenue Services European Quality Achievement award in 1998. This corporation considers tax payers as customers and has innovated his services by focusing on tax payers' necessities. Quality management applications of this corporation makes the grandest development of English tax system in 50 years. (Karyađı, 2000:89)

In 1999, English Revenue Services published a text regarding tax payers' legal rights by taking tax payers' and employers opinions. The purpose of the text was to provide tax payers with effective, productive and equitable services. The standards of those services were determined by this charter and the point to offer help and support to the solutions of problems was decreed. (Muter, Kayalidere, 2003:146).

English Revenue Services announced its missions under "Charter for Taxpayers" in 1 April 1999. In this text, it is determined to provide its customers with effective, productive and equitable services and it is to ascertain the standards of services, on which subject tax payers can get help and in what way they will process their suggestions and complaints. If tax payers fail to resolve their complaints or modification requests in preset time, they are allowed to demand a solution by applying to invoke a Parliamentary Commissioner for Administration or an independent authority called ombudsman. (Eyüggiller, 2001).

Generally, tax payers must invoke Revenue Services to resolve their disagreement with them within administrative procedure before they invoke an ombudsman. As a result, an ombudsman should be invoked only when disagreements can not be resolved through administrative procedure. An ombudsman advise the regarding administration to modify the

processes regarding complaints about administration. An ombudsman is not authorized to force the administration to take advice but administrations do take advice (Gerçek, 2003). A public auditor does not investigate the amount of tax to be paid or whether the complaint is judicial or not. He is a moderator of the situations that tax payers consider ill-treatment. (Yücedođru, 2007:110).

Suggestions from tax payers are taken seriously in order to innovate the services provided by English Revenue Services. For this reason, national, regional and local surveys are conducted and tax payers' complaints are investigated with great attention. (Gerçek, 2003).

In some countries, this phenomenon existing in tax literature as Tax Payers' Rights Declaration is a document as part of the act of tax while in some others, it does not take place within the act of tax but is a declaration by Revenue Services. No matter in what manner it is published, Tax Payers' Rights Declaration is a document including tax payer's rights within the tax payment process. Although each country's tax payers' rights declaration is different from each other, all declarations include rights such as briefing right, right to information, assistance right, judicial application, payment right to pay the exact amount of tax, precision right and confidentiality right. (Karyađı, 2013).

Revenue Services give some rights to tax payers. This declaration consists of:

(www.hrnc.gov.uk)

- Respect for tax payers,
- Assistance and help for tax payers provided that they are honest about meeting their tax duties.
- Dealing fairly with tax payers,
- Confidentiality in tax payers' information,
- Opportunity to be represented by third parties,
- Right to information,
- Keeping tax expenditures as low as possible.

Tax payers in the UK have the rights to get information about preparation of declaration forms, tax refunds, objection. In the UK, Revenue Services make declarations by acts together with informal tax rulings. Tax payers have a right to application against tax ruling but not against others. (Yücedođru, 2007:108).

In addition to that, there are some fundamental rules that tax payers have to obey. These rules are categorized in three groups: honesty, respect for revenue services employees and presentation of correct information to the revenue services.

Conclusion and Interpretations

When looked into the historical process of tax and taxation, just like Magna Carta in 1215, it is seen that rights regarding taxation was always the subject of the fight against taxation. It is also seen that people were conscious to seek justice in new taxes or taxes getting heavier and they became an example to the world with their fight against this. With the help of people's fight, it was agreed that taxes could only be imposed by general assembly and afterwards, this duty was taken over by parliaments from general assembly. Additionally, the reaction against a planned tax in the era of Margaret Thatcher which also was the reason for her resignation shows that the sovereign right of English Parliament can only be utilized with the opposition and visions of minority.

Recent comments on English tax system are that increasing the burden of public expenditures are undertaken more by wageworkers than by corporations. However, as those reactions increase, the pressure on corporations to pay their taxes fully stand out.

As public expenditures of states ascend, their necessity to increase tax revenues in order to finance those expenditures creates a situation for tax payers called tax tension. However,

er, in the case that tax payers find their fundamental rights respected, they make more effort to obey the rules. In this framework, the increase in tax burden caused countries to waive forcing strategies, tax administrations to carry out new structuring for tax payers rights, tax payers to avoid tax and innovation in tax payers right for tax voluntary compliance to decrease the tendency to avoid tax.

Another point identified regarding tax payers' rights is the necessity of studies to be carried out in simplifying the complex tax system and in this framework, the establishment of The UK Office of Tax Simplification. Tax payers' rights taking place in Tax Payers' Rights Declaration in The UK together with their liabilities for taxes is considered noteworthy in terms of citizens' rights standing on an equal platform together with the state's.

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