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Crime of Covert of Books, Records and Documents in Terms of Right to Silence: Turkish Evidence / Susma Hakkı Açısından Defter, Kayıt ve Belgeleri Gizleme Suçu: Türkiye Örneği

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ABSTRACT

Tax law depends on registration system. Taxpayers are obliged to keep books, records and documents for a five year period according to the rules determined by Tax Procedure Law. Another obligation of taxpayers is the obligation of presenting books, records and documents. According to Tax Procedure Law, avoiding the presentation of books, records and documents results in tax evasion and requires penalty of imprisonment. The right of not giving evidence against oneself when there is incrimination is referred to as right to silence. Turkish Constitution ensures right to silence as well as some rights and freedoms. A frequently encountered problem is that taxpayers would not present their books, records and documents to legally authorized personnel of tax audit. There are different views and legal decisions about whether an action that requires penalty of imprisonment under Tax Procedure Law may be evaluated as right to silence. For example, although European Court of Human Rights accepts not presenting books, records and documents as right to silence, Constitutional Court of the Republic of Turkey does not consider this action as right to silence. In this study, not presenting and covert of books, records and documents will be evaluated in terms of right to silence. Various views and legal decisions will also be examined.

KEYWORDS Not presenting books and records; right to silence; tax evasion

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