

Analysis on Tax Governance of Cross-border E-commerce in China

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Abstract

China's cross-border e-commerce has become an important engine of foreign trade development and a new driving force for economic growth. It has also brought great challenges to the traditional tax governance system. Based on a review of tax policies in the field of cross-border e-commerce in China, this article analyzes the major problems in tax information governance, tax governance of small and medium-sized businesses, and tax governance of digital goods in cross-border e-commerce tax governance in China. The four aspects countermeasures of China's cross-border e-commerce tax governance are proposed in four aspects: the legal system for taxation related to e-commerce, improving China's tax collection and management system and information system, participating in the formulation of international e-commerce Internet standards, and accelerating the exploration of taxation strategies for digital goods in cross-border e-commerce.

Keywords

Cross-border E-commerce; Tax Governance; Tax Department.

1. Introduction

With the rapid development of the economy, China's cross-border e-commerce has gradually moved toward branding, localization and diversification, and has become an important engine for foreign trade development and a new driving force for economic growth. However, cross-border e-commerce connects non-entrepreneurs, small businesses and large enterprises with customers around the world, which undoubtedly poses new challenges to traditional tax collection and administration. To this end, in recent years, China has been constantly adjusting the tax laws and regulations related to cross-border e-commerce, hoping to thoroughly solve the problems existing in its development process. As an important part of national governance, tax governance can, through organic cooperation between the state, the market, social organizations and other subjects, adopt a top-down approach according to relevant tax laws and administrative regulations, guide multiple subjects to understand and master tax policies, improve the public's awareness of policy and tax compliance, reduce tax collection and administration costs, and achieve the goal of ensuring national fiscal revenue under the premise of smooth tax collection. Therefore, how to achieve effective tax governance for cross-border e-commerce is not only the focus of our government, but also the arduous task that must be completed.

2. Analysis of China's Cross-border E-commerce Tax Policy

Currently, there are two ways to tax e-commerce in the world, namely following the current tax system and imposing new taxes. Based on the current basic situation of cross-border e-commerce taxation, China still follows the traditional e-commerce tax system and practices, and does not levy new taxes. Through the review of cross-border e-commerce tax policies, this

paper explores the difficult problems that China is currently trying to solve and the problems that it hopes to solve in the future.

2.1. Analysis of Tax Policies on the Sales Side of Cross-border E-commerce

In order to create a fair and competitive market environment and promote the healthy development of cross-border e-commerce imports, since 2016, the state has gradually adopted a regulatory attitude towards cross-border e-commerce, and its tax supervision has also tended to be standardized. Document No. 18 of Fiscal Tariff [2016] "Notice on the Tax Policy of Cross-border E-commerce Retail Imports" stipulates that cross-border e-commerce retail imports are subject to tariffs, value-added tax, consumption tax, etc., in accordance with "goods", and are no longer subject to the postal tax rules for "articles" [1]. The main tax standard for cross-border e-commerce platforms to collect and remit on behalf of each other is to require RMB 2,000 as the upper limit for a single transaction of retail imported goods and RMB 20,000 as the upper limit for individual annual transactions of retail imported goods. If the tax standard is reached, the tariff rate is temporarily set at 0%, but the import VAT and consumption tax shall be levied at 70% of the tax payable, and if the standard is exceeded or the imported goods are a single indivisible goods with a dutiable value exceeding the upper limit of 2,000 yuan, they shall be taxed in full in the form of general trade according to the regulations[2]. During the same period, in order to implement the strengthening of collection and management proposed by China's cross-border e-commerce tax policy, the Ministry of Finance, the General Administration of Customs, and the State Administration of Taxation jointly issued the List of Cross-border E-commerce Retail Imports (No. 40 of 2016), but after the promulgation of this policy, it had a serious impact on the operation of cross-border e-commerce platform enterprises, and the cross-border import transaction volume decreased by nearly half in the next month, and the market cooled. As a result, the new policy has been postponed three times: first, in May 2016, its effective date was postponed to May 11, 2017 (inclusive), and second, on November 15, 2016, it was announced that the effective date of the new policy issued on April 8 of that year would be postponed to the end of 2017. Although strict control of product registration and import licenses is beneficial to our consumers, as they are less likely to fall victim to inferior goods when purchasing products stored in bonded warehouses. The Chinese government hopes to maintain a balance between cross-border e-commerce and traditional bulk trade by adjusting customs policies from time to time. Third, at the State Council meeting on September 20, 2017, the transitional regulations on cross-border retail were extended to the end of 2018, which is the third time that the transitional regulations have been postponed, during which cross-border importers will be exempted from product registration and customs clearance import licenses. The List of Cross-border E-commerce Retail Imports (2018 Edition) came into effect on 1 January 2019.

In September 2018, goods that have not obtained a valid purchase certificate in the Cross-border E-commerce Comprehensive Pilot Zone will be exempted from value-added tax and consumption tax for export if they meet the prescribed conditions. This policy implements the policy of "no ticket tax exemption", clarifies the issues related to the verification and collection of cross-border e-commerce enterprise income tax, and promotes cross-border e-commerce enterprises to better carry out export business. In the Announcement on Issues Concerning the Verification and Collection of Enterprise Income Tax on Retail Exports in the Cross-border E-commerce Comprehensive Pilot Zone, it is determined that the enterprise income tax shall be levied in the form of taxable income rate in the comprehensive experimental zone, which shall be determined at 4%[3]. In other words, the income tax rate of export e-commerce enterprises has dropped by nearly five times compared with that of traditional enterprises. By reducing the tax rate of retail export enterprises and further clarifying the tax standards for export e-

commerce, the tax burden of cross-border e-commerce can be effectively reduced, and the tax collection and management of cross-border e-commerce can be gradually formalized.

On 29 November 2018, the Notice on Improving the Tax Policy on Cross-border E-commerce Retail Imports (Document No.49 of Fiscal Tariff [2018]) increased the transaction limit for personal items to RMB 5,000 per transaction and RMB 26,000 per person per year. In the past, the limit for each purchase for cross-border e-commerce purchases was 2,000 RMB, while the limit per person per year was only 20,000 RMB[4]. In addition, 63 new products will be added to the cross-border e-commerce "white list", which is not affected by import tariffs and customers only need to pay 70% of the relevant statutory VAT and consumption tax. This document shows that the government is paying more attention to the importance of the cross-border e-commerce industry. Chinese consumers can purchase high-quality products that cannot be purchased in the domestic market through cross-border e-commerce, such as cosmetics, luxury goods, nutritional products, etc. At the same time, the government is seeking to tax cross-border purchases reasonably and protect consumers from quality and authenticity issues. In the past, many individuals who purchased overseas products through grey market daigou began to turn to cross-border e-commerce platforms.

On 31 August 2018, the Government adopted a comprehensive law on e-commerce, which came into force on 1 January 2019, in response to the fact that the amount of goods or services provided by individuals online is very low and that it is difficult for tax authorities to identify the private business due to the lack of necessary information. This shows that the Chinese government has realized that more regulations are needed to protect consumer rights and provide a level playing field for both large and small players in the industry. The law specifically regulates some of the actions of three types of operators, mainly platform operators (Taobao, Pinduoduo, JingDong, etc.), operators operating on the platform, and any other type of e-commerce business (including micro-businesses, independent e-commerce websites, etc.). These companies will face increasing scrutiny and, in the case of joining large platforms, will have to strengthen their own internal procedures to protect product authenticity and intellectual property rights[5]. As a result, sellers on WeChat and Taobao will register and pay income tax for the first time, operating in the same way as local brick-and-mortar retail stores. With the implementation of the new e-commerce law, small sellers such as daigou types may completely withdraw from the market due to higher prices due to higher costs.

2.2. Analysis of Cross-border E-commerce Consumer Side Policies

The 2019 government work report pointed out that the government will reduce the VAT rate for certain industries. VAT will be reduced from 16% to 13% for manufacturing companies, from 10% to 9% for transport and construction, and 6% for other industries. Therefore, the cross-border e-commerce tax rate will also change, because it is a combination of VAT + consumption tax, which cuts the national VAT, and the comprehensive tax rate of cross-border e-commerce in China will also be reduced from 11.2% and 25.53% to 9.1% (groceries, baby products, nutrition, personal care) and 23.05% (cosmetics, perfumes)[6]. In April 2019, Premier Li Keqiang announced further tax cuts on consumer goods purchased overseas, in a bid to increase imports and stimulate domestic consumption. The tax reduction affects the import tax on imported goods, which applies to items brought into the country as personal effects or as personal items, and not to items transported through customs as commercial items. Prior to the cut, the tax rate was divided into three tiers: 15%, 25% and 50%, with the first two tiers reduced to 13% and 20% respectively[7]. As early as November 2018, the government had reduced the rate of duty for the top rate from 60% to 50% and the rate for the medium rate from 30% to 25%. This is the second tax cut on personal imports in six months, indicating the government's eagerness to stimulate consumption amid a slowdown in the domestic economy.

3. Analysis of the Difficulties in the Tax Governance of Cross-border E-commerce in China

3.1. Difficulties in the Governance of Tax Information in Cross-border E-commerce

"Paperless" means that the entire transaction process, including sales contracts, bills, etc., exist in electronic form, without the need for paper materials, which is the most important feature of e-commerce. In the past, the tax department taxed business entities based on accounting statements and accounting to inspect and supervise tax revenue. Cross-border e-commerce transactions are secretive and intangible, and electronic data can be easily tampered with or hidden using encryption technology, so it is difficult for tax authorities to track and audit electronic data and directly find relevant tax collection documents. The inability of tax authorities to obtain authentic and reliable information leads to a decline in the efficiency of tax collection and management, and the loss of a reliable basis for tax revenue. "Paperless" also brings a new problem, B2B business can refer to the traditional general trade method to handle export tax rebates, but for a large number of cross-border e-commerce in the cross-border e-commerce to build their own sales platform and use the third-party cross-border e-commerce platform of small and medium-sized enterprises and even individual sellers, they often lack manpower to engage in this work. For these businesses with high transaction frequency, small quantity, and lack of foreign trade paper documents (namely paperless), the governance of tax information is more difficult.

3.2. Difficulties in Tax Governance of Small and Medium-sized Businesses in Cross-border E-commerce

As far as the current tax model is concerned, the first part of tax administration is tax registration, which is also the basis for enterprise registration. However, since the business scope of e-commerce is not limited, no prior approval from the industrial and commercial authorities is required, and the tax registration method for tangible trade is no longer applicable to e-commerce trade, for example, if a Taobao seller wants to apply to operate a store on Taobao, he only needs to provide a copy of his ID card and bank account, and does not need a business license and tax registration certificate, so it is difficult for the tax authorities to effectively track e-commerce transactions, let alone cross-border e-commerce. In November 2018, the government raised the upper limit of individual cross-border e-commerce purchases, with the aim of reducing grey industries such as overseas purchasing agents, strengthening the tax collection and management of cross-border e-commerce for small merchants, and encouraging cross-border e-commerce purchases so that they can be tracked and taxed. At the same time, the government has also reduced taxes on inbound goods transported through postal channels. In January 2019, China's new e-commerce law came into effect, which shows that how to strengthen the compliance of taxpayers and tax objects has always been a difficult problem that China is trying to solve in terms of cross-border e-commerce tax governance.

3.3. Difficulties in Cross-border E-commerce Consumer Tax Governance

For ordinary consumers, in the import process, the amount of a single purchase of goods such as imported milk powder or cosmetics can easily exceed 5,000 yuan, and should be fully taxed in accordance with the general trade method in accordance with the regulations, even if the single purchase does not exceed 5,000 yuan, it is still subject to the collection of customs duties, value-added tax and consumption tax. However, in cross-border e-commerce, ordinary consumers have not yet developed the habit and awareness of tax declaration, and their tax compliance needs to be improved. At the same time, some consumers use the identity of other personnel to declare customs to purchase goods through e-commerce channels are not

uncommon, the customs can not effectively obtain the personal identity information of each consumer, and the construction of the information sharing platform also needs to rely on the continuous development of the entire social information technology platform, which can be completed overnight. In addition, the taxes and fees of most cross-border e-commerce goods will increase with the abolition of the minimum exemption amount, so more customs officers are required to participate in the collection of personal taxes and fees, which will greatly increase the administrative costs of on-site customs. It can be seen that improving tax compliance, consumer information sharing, and tax collection costs are all difficulties faced by cross-border e-commerce consumer tax governance.

3.4. Difficulties in the Tax Governance of Digital Commodities in Cross-border E-commerce

As far as cross-border e-commerce is concerned, digital products sold online are an important part of cross-border e-commerce. For a long time, there have been two views on whether to tax the online sale of digital products, whether to tax or exempt. The former, led by the United States, argues that "virtual products" should not be taxed. The European Union, on the other hand, believes that a digital tax should be levied in order to control this loss of tax base[8]. On July 12, 2019, France officially passed the introduction of a 3% digital tax, and the United Kingdom, as the first to implement strict VAT on overseas sellers, has also drawn up a plan to implement a digital tax in the next two years[9]. As a big country in the digital economy and cross-border e-commerce trade and labor services, China is one of the world's largest markets for digital products, so how to carry out the collection of digital tax not only has a significant relationship with the development of China and its Internet enterprises, but also directly affects the competitiveness of Chinese enterprises in the world and China's reasonable share in the global profit distribution, which deserves the attention of all parties. At present, the issues that need to be explored urgently are how to increase the tax source of cross-border e-commerce and digital goods, how to connect and transition tax policies, and how to avoid double taxation.

4. Countermeasures and Suggestions for China's Cross-border E-commerce Tax Governance

4.1. Improve the Tax Legal System Related to Cross-border E-commerce

The legal principle of taxation is the basic and natural principle of the tax law, although China's current e-commerce has been introduced and implemented, but China's legislature must follow the basic principles, improve the e-commerce law implemented on January 1, 2019, and improve the tax collection and management mechanism and legal system. First, it is necessary to clarify the relevant elements of taxation, and in order to better carry out the construction of China's tax legal system and eliminate the legal blind spots in cross-border e-commerce, it is urgent to increase some regulatory tax provisions that are coordinated with cross-border e-commerce. Relevant tax laws and regulations should refer to the partial situation of tax collection and management in traditional e-commerce, follow the principle of tax fairness, and clarify the tax elements, taxpayers' rights and responsibilities, and taxation procedures of cross-border e-commerce, so as to realize the tax management of cross-border e-commerce. The second is to enrich the tax-related management system, further enrich the scope and tax rate of value-added tax, consumption tax and business tax in cross-border e-commerce trade, and expand the tax base; In addition, the VAT threshold and the identification of taxpayers should be adjusted according to the actual situation, and various preferential policies should be formulated to promote the development of cross-border e-commerce. In addition, in recent years, it has been difficult to reach a consensus on relevant tax laws in international trade, which has gradually weakened international cooperation, however, in the long run, it will be

more practical to impose taxes related to cross-border e-commerce if countries around the world can strengthen cooperation, jointly formulate relevant tax standards, and agree on policies and technological prospects.

4.2. Improve China's Tax Collection and Management System and Information System

4.2.1. Establish an E-commerce Tax Registration System

Since June 1, 2010, China began to implement the 'Interim Measures for the Administration of Online Commodity Trading Services (Decree No.49 of the State Administration for Industry and Commerce)', which was issued by the State Administration for Industry and Commerce on May 31, 2010 in the form of document No.49, effective from July 1, 2010 to March 15, 2014. Enterprises and individuals engaged in e-commerce trade must register with the tax authorities after obtaining a business license or completing a fee transaction. In order to facilitate the supervision and management of tax authorities, taxpayers must transfer relevant information to tax authorities according to law. On March 15, 2014 after the abolition of this measure, the "Measures for the Administration of Network Transactions (Decree No.60 of the State Administration for Industry and Commerce)" came into effect. This approach has a wider jurisdiction and adjusts the law enforcement jurisdiction of industrial and commercial authorities to deal with cross-border violations. However, there is still room for further improvement in this approach, such as the establishment of an e-commerce tax administration registration system according to law.

4.2.2. Fully Implement Electronic Invoice Management

At present, although taxpayers can ask for invoices through the Internet or obtain invoices from the invoicing window of the tax authorities, the promotion of electronic invoices still needs to be expanded, because in the future, e-commerce trade will be realized through online invoices, and traditional e-commerce management will be replaced by high-tech informatization and professional collection and management mode. China must be at the forefront of the cross-border e-commerce trend, "electronic invoice management" must be promoted, and at the same time, in order to ensure the security, confidentiality, authenticity and clarity of electronic invoices, more perfect equipment, technology and professional knowledge are needed.

4.2.3. Improve the Means of Controlling the Tax Source of Cross-border E-commerce

Traditional tax management methods have been unable to meet the current demand for cross-border e-commerce electronic technical information, in the process of online transactions and online payments, the supervision and control of cross-border e-commerce has become the most effective method of its tax management, therefore, the law needs to authorize the tax authorities to conduct a detailed understanding and verification of cross-border e-commerce transactions and the flow of funds in online banking. At the source, strengthen taxpayers' awareness of tax declaration and protection of their legitimate rights and interests in accordance with the law, and clearly stipulate the tax policy of third-party platforms to collect and pay on behalf of taxpayers; In terms of process, we will further promote the collection and management mode of "Internet + tax" and optimize the tax collection process; In terms of supervision, we will ensure the authenticity of electronic data and closely cooperate with the customs to strengthen tax inspections, so as to effectively monitor the tax source management of cross-border e-commerce enterprises, control tax avoidance, and crack down on illegal tax avoidance.

4.2.4. Improve the Construction of Cross-border E-commerce Tax Collection and Management Networks

Through the construction of the tax collection and administration network, the tax authorities shall be connected with the industrial and commercial departments, customs departments,

banks, third-party payment platforms and third-party e-commerce platforms, and have the right to obtain the sales data and tax data of the third-party platforms at any time, so as to achieve effective supervision and verification of cross-border e-commerce transactions. The tax authorities should also actively promote the implementation of tax inspection and auditing, supervise the use of taxpayers' electronic accounting software and the process of electronic payment, including business information, electronic invoices and accounting information, all electronic information data, once the tax authorities find that the information is modified or untrue, or attempt to cover up the information through the Internet, it must be published in accordance with the law, through this method can increase the cost of tax avoidance for tax avoiders, reduce the occurrence of tax avoidance. At the same time, it is also very important for the tax authorities to develop appropriate cross-border e-commerce collection and management software and various management software, and have advanced tools to enable the tax authorities to obtain transaction records through network keys in accordance with the law, monitor the security of financial data and related data, and prevent the falsification of some company information.

4.3. Actively Participate in the Formulation of International E-commerce Internet Standards

Internationalization and informatization are typical characteristics of cross-border e-commerce, and the openness and global characteristics of cross-border e-commerce have broken through the traditional time and space limitations, and posed many challenges to the anti-tax avoidance of tax authorities. And if a country, region or even an organization is in a completely closed state when formulating e-commerce standards for cracking down on illegal transnational e-commerce trade and international trade barriers, it will be in a very passive position. Therefore, with the globalization of e-commerce and international economic integration, China must strengthen cooperation with other countries, actively participate in the formulation of international e-commerce Internet standards, fully share international tax information, reduce tax avoidance in cross-border e-commerce trade, check and fill loopholes in cross-border e-commerce trade, and reduce or even eliminate the losses caused by tax loss.

4.4. Accelerate the Exploration of Countermeasures for Digital Commodity Tax Governance in Cross-border E-commerce

As an important part of the digital economy, cross-border e-commerce involves the distribution of tax benefits among countries around the world. In the context of the beginning of the collection of digital taxes in Europe, China should actively respond, consider the impact of the digital economy on China's tax revenue, fully mobilize the participation of multiple forces, especially listen to the voices of Internet enterprises, and conduct in-depth understanding and analysis of cross-border e-commerce, the format of the digital economy, from multiple dimensions, so as to accelerate the pace of digital economy tax research, legislation and practice, and introduce tax policies for digital goods in cross-border e-commerce as soon as possible to safeguard national tax rights and interests. For example, if digital goods are removable, the important factor in taxation is the consumer's domicile or business address, therefore, based on the consideration of long-term development, China can take destination tax as the best choice to deal with the tax governance of digital goods in cross-border e-commerce.

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