

Research on the Legal Issues of Tax Collection and Administration of Webmaster with Goods

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Abstract

In recent years, the rapid development of the internet industry to our country's network live broadcast industry has brought unprecedented opportunities for development. The era has created the birth of a new industry, but also produced a number of new jobs-with goods anchor, "Live with goods" in the field of online shopping consumption has become a new wave. However, due to the current legal regulation of its provisions are not perfect, making the network live broadcast industry chaos, the most prominent of which is the serious tax evasion of webmasters with goods. Based on the analysis of relevant cases and laws and regulations, this paper puts forward some problems about the collection and management of the personal income tax of the webmaster with goods on the network, such as the disunity of the recognition standard of the webmaster's personal income, the ambiguity of the withholding agent and the disunity of the tax calculation method, and gives some corresponding solutions, such as the establishment of the system of identifying the personal income taxable income, clear withholding agents, unified tax calculation. In order to improve the existing laws and regulations of the shortcomings of the network with goods anchor personal income tax collection and management to build an all-round, multi-angle normative system.

Keywords

Live broadcast industry; Anchor with goods; Tax evasion; tax collection and management.

1. INTRODUCTION

The frequent occurrence of tax evasion cases of webcast, involving large amounts of money, heavy penalties, strong social influence, has a huge negative effect on the entire live broadcast industry. However, there is a lack of special tax laws and regulations concerning the personal income tax collection and management of the new profession of webcast. At the same time, the domestic academic community on the regulation of the webcast industry with goods anchor personal income tax collection and management of the relevant literature is less, this is in sharp contrast to the huge economic value created by the emerging industry of live streaming.

Tax is an important foundation and pillar of national governance, and tax collection and administration plays an important role in the elements of tax system. First of all, for the network live broadcast industry, the healthy development of an industry, can not be separated from a complete set of legal support. The effective tax collection and management is very important to avoid the tax loss of our country and promote the development of national economy. At the same time, it is also beneficial to crack down on the illegal and disorderly acts of the live broadcast industry, standardize the industry ethos, and promote the sustainable and stable development of the industry. Secondly, a clear tax collection and management can help webcast practitioners clarify the legal position of personal income, understand the impact of tax policies on ordinary

citizens, and help to widely establish the concept of paying taxes according to law in society, reflect the principle of tax equity. Finally, in the tax legal relationship, increasing the tax supervision on the personal income tax of webcast is the most basic requirement for the live broadcast industry and even the main practitioners.

2. THE SOURCE AND COMPOSITION OF PERSONAL INCOME OF WEBMASTER WITH GOODS

2.1. A source of income for a webcast

In recent years, the development of the Internet live broadcast industry is booming. Looking at the status quo of the industry, the income of streamers with goods mainly includes two aspects: live broadcast sales and fan consumption. Live selling is when an anchor shows and sells goods in a live studio. For example, many brands and businesses hire professionals to explain and introduce products to attract consumers. At present, the field of live broadcast sales gradually expanded, not limited to the sale of physical goods can be displayed, in education, tourism, advertising and other fields are also involved in and more perfect. At the same time, fan consumption was another source of content for the streamers. Not only did the fans buy the products recommended by the streamers, but some of them would send "Gifts" to the streamers through the live stream during the viewing process, here the "Gift" is to require consumers in the software platform pre-recharge and then exchange the corresponding value of the items sent. After sending to the host is not entirely owned by the host, the host and platform will be in accordance with the corresponding proportion of the share. In addition, some streamers can get a fixed salary by signing up with platforms or merchants, which is often linked to popularity, subscriptions, and views.

2.2. The income structure of the webcast with goods

As far as the composition of income is concerned, there are various types of streamers. Our country "Individual income tax law" enumerates 11 items of individual income that levy tax, the tax rate that different type applies is also different, therefore the legal relation between platform, brokerage company and anchor can not give a general conclusion here, need to be determined in conjunction with the specific content of the contract.

As a general rule, the webcast is not directly employed by the webcast platform, some are in the name of individuals, and some are contract brokers. If it is carried out in the name of an individual, the nature of the contract with the live broadcast platform belongs to the labor contract, then the remuneration obtained from the platform belongs to the income from labor remuneration; If the webcast with goods signs a contract through a brokerage company and a webcast platform, the webcast platform does not directly exchange money with the streamer, but pays through the brokerage company, and the income obtained is considered salary income. At this time, it can also be broken down. If a streamer with goods carries out live broadcast activities on a webcast platform as an employee of a brokerage company, he will only receive salary from the brokerage company on the basis of performance and no other share, then the floating salary obtained from the brokerage company should be the income from salary and salary. If the streamer with goods signs a tripartite agreement with the brokerage company and the live broadcast platform, the brokerage company will only play an intermediary role in it, at this point the anchor according to the agreement is divided into income for labor income.

3. THE LEGAL PROBLEMS EXISTING IN THE COLLECTION AND ADMINISTRATION OF PERSONAL INCOME TAX

3.1. There is no uniform standard for determining the personal income of the host with goods

Income determination is the first step of tax collection and administration. The results of the income of webcast with goods are complicated and varied, including the pit fee, commission, Cash paid by fans, advertising endorsements, tips and so on. A variety of income may include income from wages and salaries, income from remuneration for services, income from operations and income from accidents. However, in the specific collection practice, the nature of the income of streamers with goods has not been clearly defined, which causes the phenomenon of tax evasion by streamers with goods to occur repeatedly.

First of all, part of the income of webcast with goods is still controversial on the nature of the income. Take the reward income as an example, it is usually classified as salary income, labor income or business income according to the basic legal relationship, but some scholars suggest that it can be attributed to incidental income. Second, the anchor income in the form and the economic essence of the deviation. Under normal circumstances, the income of an anchor who provides services in the form of an individual belongs to the income from labor remuneration, and the remuneration obtained in the form of employment is the income from wages and salaries, the income obtained by providing labor services in the name of the commercial entities such as individual industrial and commercial households and sole proprietorship enterprises set up by them shall be defined as business income. However, because the live broadcast industry is a new industry, and the income is more complex and diverse, the template of the use of general concepts may produce errors. On the one hand, it is difficult to define labor relations and labor relations, and it is difficult to distinguish between the labor remuneration earned by the anchor with goods and the salary income; on the other hand, it is possible to set up a shell commercial entities to carry out income conversion, some of the labor income into business income. In addition, in practice, there is also a host with goods is actually to provide personal status of labor services, but in line with the "Business" requirements. It is worth to discuss how to levy individual income tax on this kind of income by means of business income.

3.2. The withholding agent is not clear

Tencent has published a "Wechat public platform appreciation function use agreement," the agreement said that Tencent wechat public platform appreciation only provides the collection and payment function, therefore the behavior of the various taxes and fees, by the appreciation of the user to bear their own. This agreement once published, immediately caused a heated discussion on the internet, many people accused Tencent company this move is in evading the withholding obligation. Whether or not Tencent has an obligation to withhold and pay these fees, similar provisions emerge in the live broadcast industry one after another. The individual income tax law of our country stipulates that the individual income tax shall be Taxpayer on the basis of the income person, and the entity or individual paying the income shall be the withholding agent. To say the least, even if Tencent does not have a tax obligation to withhold payment, it is clear that the live streaming platform or the brokerage company that pays the "Reward" to the hosts will have a tax obligation to withhold payment. This is especially true for the other salaries, salary and labor earned by anchors. Withholding agents are not clear, and even live broadcast platforms and brokerage companies shirk their responsibilities, resulting in the loss of tax results.

3.3. The tax payment method is not unified

Under the influence of the general environment, the live broadcast industry has developed rapidly in recent years, live broadcast platform is also increasing. Each platform has a large user base, but the current law on the industry's tax calculation has not been uniform standards. In this case, each platform has its own set of tax calculation, resulting in a serious loss of personal income tax.

In addition, some streamers do not only serve a platform or a brand, and can get revenue from each platform, and the way these revenue is different, some have their own pay channel, some can cash out directly to the host's private account, while others can cooperate with third-party payment platforms such as Alipay, and so on. As a result, there are various sources of income and places for the host to bring goods, there is debate over whether each income should be taxed separately or jointly, under what title and by whom. And because different live broadcast platforms have different ways of calculating individual tax, some may be calculated according to labor remuneration, some may be calculated according to salary, and some may be calculated according to incidental income tax, the amount of tax calculated by different tax items varies greatly. And some income such as the day-end do not need to pay taxes, and the monthly end of the need to pay taxes.

4. HOW TO SOLVE THE LEGAL PROBLEMS OF PERSONAL INCOME TAX COLLECTION AND ADMINISTRATION OF WEBMASTER WITH GOODS ON INTERNET

4.1. To construct the identification system of personal income taxable income

First, the correct identification of legal relations. In the live broadcast industry, there are two kinds of possible civil legal relations between the host with goods and other subjects. One is a labour relationship, that is, a contract with a brokerage firm or a platform company, or a employment contract employment contract that is not signed but is in fact employed or employed by a brokerage firm or a platform company, as a result of personal and property dependence, the labor relationship between the host and the company is established. The other is the commercial cooperative relationship, that is, the labor relationship, which is the live broadcast of goods by the host in his personal form, or the live broadcast of goods by the host in the form of his established commercial subject, not directly employed by brokerage companies, live broadcast platform, the two sides are equal cooperation model, one party to provide services, the other party get paid. However, if the host with goods pretends to be a commercial subject, and there is only business form, but no substantive business, the form of the commercial subject will not be recognized, and the labor relationship between the two parties should be recognized.

Second, the nature of scientific recognition of income. After clearing up the legal relationship, the corresponding type should be aimed at the different income forms of the streamers with goods. In the case of an individual anchor and a brokerage or platform company, if the relationship is a labour relationship, the income received is the income from wages and salaries; if the relationship is a labour relationship, the income received is the income from remuneration for Labour. In the case of the establishment of a commercial main anchor, with the brokerage company or platform company constitutes a labor relationship, the income it obtains should be reported according to the income tax.

4.2. Clear withholding agents

First of all, we must straighten out the legal relationship between live broadcast platform, economic companies and internet hosts, according to the corresponding legal relationship to

determine the withholding agent. If the streamer carries on a live broadcast in his personal capacity, the live broadcast platform is simply a workplace, and the streamer is the Taxpayer, and if the streamer signs a contract with the live broadcast platform but is not affiliated with a brokerage company, at this time, the live broadcast platform has the obligation to withhold and pay. If the streamer with the goods is an employee of the agency, the agency will come forward to sign a contract with the live broadcast platform, and the streamer will work as an employee of the agency on the platform. At this time, it is the responsibility of the agent who has an employment relationship with the anchor to pay for the broadcast. The agent acts as an intermediary to establish a link between the anchor and the live broadcast platform. At this time, the income earned by the anchor belongs to the remuneration for his services, the platform that pays the host's taxable income is responsible for withholding the income. However, we need to clarify the legal responsibility between the main parties to avoid live broadcast platform companies or brokers shirk their responsibilities.

4.3. The tax payment method shall be unified

There are two ways of paying individual income tax in the current law: withholding and self-declaration. No matter which payment method, all take the unified tax payment calculation method as the premise. However, at present, the various platforms on the provisions of tax varies greatly, not conducive to tax collection. As the employee of the platform company or brokerage company, the network anchor and the related main body form the labor relations, the related commercial main body belongs to the legal withholding obligor, should fulfill the withholding obligation; Webcast as an independent identity to participate in the platform company live broadcast activities for labor income, pay income tax by time, by the platform company to fulfill the withholding obligations, webcast as an ordinary user to participate in live activities, no and platform or company signed, but annual income and more than 120,000, you need to declare.

5. CONCLUSION

The rapid development of Internet technology has promoted the continuous progress of live broadcast industry, while providing more convenient shopping life for the people, but also provide a large number of jobs to ensure a certain social employment rate. At present, more and more people are investing in the live streaming industry. The new career of bringing goods to host has become the choice of many people, but the new industry form can not be short of supervision, there are some loopholes in the personal income tax payment, such as lack of awareness of tax payment, and lack of legal system to urge tax payment. With the vigorous development of the live broadcasting industry, the income of the streamers with goods also increases rapidly. If the tax collection and management of the live broadcasting industry are allowed to remain insufficient, it will bring a huge loss to the national tax revenue, it is also not conducive to the provision of social public goods and services. Therefore, it is urgent to follow the trend of economic development and adopt reasonable tax policy. Based on the current status of income tax in live broadcast industry, this paper introduces the source and composition of personal income of webcast, then it analyzes the legislation and judicial practice of personal income tax collection and management of webcast in our country, and points out the legal problems existing in the current personal income tax collection and management of webcast industry in our country, for our country live broadcast profession healthy orderly development contribution strength.

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