

ANALYSIS THE POLITICAL AND ECONOMIC FACTORS OF ANTI-INCOME TAX AVOIDANCE SYSTEM BETWEEN TAIWAN AND CHINA

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—Abstract—

This study found that the main reasons, which lead to a more stringent Anti-Income Tax Avoidance in China than in Taiwan, are as follows by analysis the differences of Cross-Strait (Taiwan and China) Anti-Income Tax Avoidance policies and the process of law regulation. First, the executive department in China has higher autonomy to regulate Anti-Income Tax Avoidance; whereas Taiwan's regulations need to reflect citizens' demand. Second, foreign-funded enterprises have less impact on Anti-Income Tax Avoidance in China; however, multinational enterprises in Taiwan have strong influence on it. Third, China has the large scale of domestic market, but Taiwan is a typical export-oriented economic system. Forth, most multinational enterprises in China are belonged to central government. Nevertheless, they are private-owned in Taiwan.

Key Words: *Anti-Income Tax Avoidance System, Transfer Pricing System, Cross-Strait (Taiwan and China)*

JEL Classification: K34

1. Preface

The current Taiwan's policies about Anti-Income Tax Avoidance include Transfer Pricing System, Advance Pricing Agreement, and Thin Capitalization. In China, it includes Transfer Pricing System, Advance Pricing Agreement, Cost Sharing Arrangement, Control Foreign Corporation, Thin Capitalization, and Treaty Shopping. Moreover, the regulations are more stringent and careful in China than in Taiwan.

The differences of designing system depend on the factor of regulation during the process. This study tends to realize the formation of Cross-Strait (Taiwan and China) Anti-Income Tax Avoidance from differences of political and economic perspectives in these two regions.

2. The Reasons of Strengthening Cross-Strait Anti-Income Tax Avoidance System

2.1. The Reasons of Strengthening Anti-Tax Avoidance in Taiwan

It is mainly based on the reason of fair tax to strengthen the forming of Anti-Income Tax Avoidance System. More multinational enterprises avoid tax payable in Taiwan because they utilize the differences of tax system among international to do some unreasonable operating or financial arrangement.

2.2. The Reasons of Strengthening Anti-Tax Avoidance in China

The reasons of strengthening Anti-Tax Avoidance in China are as follows. First, foreign-funded enterprises, which avoid tax, reduce the fiscal revenue (Wang, 2009). Second, foreign-funded influences the development of domestic-funded. Furthermore, it can have fair competition between foreign-funded and domestic-funded by the enhancement of Anti-Tax Avoidance (Chen, 2005). Third, promote the quality of foreign-funded.

3. The Differences of Political Perspectives

3.1. The Legislative Process of Anti-Tax Avoidance

3.1.1. The Legislative Process of Tax Laws in Taiwan

In the Taiwan's political system, the legislative Yuan is composed of legislators, who are directly elected by citizens. Therefore, the Anti-Tax Avoidance's law and

executive regulation of legislative delegation finally reflect the citizens' decision. In the legislative process of policies, government officials, interests groups, and representatives will all have influences, and the result decides on the size of political power.

3.1.2. The Legislative Process of Tax Laws in China

The legislative department in China consists of National People's Congress and Standing Committee of the National People's Congress. In the People's Republic of China legislative laws' article of eight, the taxation is a basic system. It only establishes through the way of legislation by National People's Congress and Standing Committee. Nevertheless, due to the demand of politics and economy, State Council is authorized to legislate for the majority of current tax laws by National People's Congress.

The authority department of taxation in State Council mainly includes Ministry of Finance, State Administration of Taxation, General Administration of Customs, and the Customs Tariff Commission of the State Council. Those departments can issue some part of low level tax legislation in the permissive scope including orders, notification, public notice, and letter according to laws, and executive regulations.

Because the authority of legislation belongs to the State Council and the authority department of taxation, some of tax laws in China do not need to go through a traditional legislative process. Therefore, State Council and the authority department of taxation have highly autonomy. Due to the highly autonomy, tax laws can be legislated efficiently and rapidly.

3.2. The Influence of Legislative Process of Anti-Tax Avoidance Policies by Multinational Enterprises

3.2.1. The Great Influence of Legislative Process of Anti-Tax Avoidance Policies by Multinational Enterprises in Taiwan

Every party will compete with each other during the legislative process of Anti-Tax Avoidance policies in Taiwan. The size of politics from different groups determines the result of Anti-Tax Avoidance policies. However, in the democratic society, the size of political power depends on the size of economic power. Moreover, the size of economy depends on the distribution of economic resources in the social economic system.

If we want to realize reasons of economic resources distribution in the society, we should observe it from the perspective of social structure (Chang, 2008: 58-74). Taiwan is a post-industrial society after 1988 and 1989 (Lin, 2008; Li, 1994). In the post-industrial society, which is composed and controlled by professional elites, the professional elites in the public department hope to have more public expenditure (at least in their department which they serve). However, private department hopes to have lower tax rate and less governmental intervention. Private companies hope that government can have more expenditure on their own manufactured products and services. The professional hierarchy in the public and private department competes with each other in order for the governmental domain. The winner can become ruling elites. In other words, professionals in the public department want to see the expansion of their services because they deeply believe that social justice and social cohesion are the best way to arouse the will of cooperation, which is the necessary of economic growth. Nevertheless, professionals (most of whom are company managers and supports of right-wing media), who are in the private department, want to have less public expenditure and lower tax rate. Furthermore, they also advocate actively the free market (Perkin, 1996).

However, the professionals in the public department still have a match for those who in the private department for the distribution of social economic resources in Taiwan's society. Both of them jointly exploit the public. That is the structural problem of corruption. That problem causes the conflict of economic profits between professional elites and non-professionals (Chang, 2011). The so-called structural corruption indicates built-in rewards; this system, to cooperate with elites so that exploitation and uneven distribution of income would carry on forever, provides politicians, officials and corporate managers with "profitable" positions or compensation for loss of job. It is the built-in rewards offered to the social elites through a system they have developed to ensure exploitation and uneven distribution of income (Huang, 2006:34). The phenomenon exactly reflects Taiwan's unique heritage, social structure and political system.

Hence, in the situation of Taiwan's post-industrial society, we can know that professional elites, who are in Taiwan's multinational companies, have a great influence on the government. They can have impact on the legislation of Anti-Tax Avoidance policies.

3.2.2. The Less obstruction of Legislative Process of Anti-Tax Avoidance Policies by Multinational Enterprises in China

It does not allow interests groups to have public campaign for canvassing to government or other institutions in China (Wang, 2010). Hence, the organization of interests groups is weak. The determination policies mainly adopt the formation from top to bottom. When government legislate policies, they are always based on the country's profits as previous. Country's profits include national security, development of economy, competition of country, stable price, citizens' revenue, and etc. From the reform and open, China's government is always viewed the construction of economy as a core. They consider that the development of economy is the first task for country and government. Government can gather more fiscal revenue, enhance the quality of foreign-funded, and offer a better environment for development by passing the strengthening of Anti-Tax Avoidance. Then they can achieve the efficiency of promoting development of economy. In the aspect of Anti-Tax Avoidance, enterprises, which have great influence on the legislation of policies, do not have obstruction; whereas other interests groups have less influence on policies. Therefore, Anti-Tax Avoidance can be legislated rapidly and effectively.

4. The Differences of Economic Perspectives

4.1. The model of economic development

4.1.1. Taiwan's Economic Development Model

Taiwan is a typical export-oriented economic system. The export-oriented economic system implements many measures to achieve this target in laws. For example, it offers a lot of tax incentives in order to ameliorate investment environment and attract the investment of foreign-funded. First, it is the Statue for the Encouragement of Investment. Then it is the Statue for Upgrading Industry. It is the Statue for the Innovation of Industry nowadays. These regulations of tax incentives include five-year tax exemption, accelerated depreciation, investment tax credit, and etc. These regulations offer a great amount of incentives to enterprises.

In other words, attracting foreign-funded and expansion of export are the basic strategies to maintain economic development to Taiwan. Therefore, in the designing of Anti-Tax Avoidance policies, multinational enterprises and foreign-

funded are always in an important influence position. Moreover, Taiwan's economic development policies lead to this kind of situation.

4.1.2. China's Economic Development Model

From the reform and open, they utilize the way of leading foreign-funded and export-oriented as main methods, which guarantee the rapid economic growth in China. However, as economy grows rapidly, China has already accumulated the rich capital. At the same time, the savings rate annually increases. Thus, the demand of capital does not need it as much as before. Meanwhile, China's government has a subject concept of economic growth by going through the investment form the government. This also declines the demand of foreign-funded on some degrees. When government legislates for the Anti-Tax Avoidance, it does not need to worry about many things because it does not depend on the economic development model of foreign direct investment as much as before.

4.2. The Multinational Enterprises' Operating Income, Proportion, and the Capital of Transnational Flow

4.2.1. Taiwan

In Taiwan's multinational enterprises, the manufacturing revenue is 19 trillion 770 billion dollars in 2006, and the proportion of overseas increases from 7.4% in 2001 to 26.5% in 2006. It increases 19.1 percent in five years. Furthermore, traditional industry's proportion of overseas is 3.9% in 2006, and it only increases 1.5 percent comparing to 2001. Therefore, the traditional manufacturing industry is still as a core in Taiwan. The operating income of non-traditional industry increases 6.1 trillion dollars in five years, and the income is nearly 4.3 trillion dollars from overseas. Thus, proportion of overseas increases sharply from 14.9% in 2001 to 47.9% in 2006. The manufacturing of information technology products, which has 90% revenue in non-traditional industry and the 49.4% operating income is from overseas, earned 4.7 trillion dollars. Therefore, we obviously find that the strategy of orders in Taiwan and production overseas in the globalization has become an important trend to non-traditional manufacturing industry's operating (The summary analysis of preliminary result of commerce and service census in 2006).

Moreover, if we analyze from the perspective of the capital transnational flow in Taiwan, we can find that the investment has a trend of decline from overseas Chinese and foreign country. However, the investment increases rapidly in China (The statistics report of approve the overseas Chinese foreign investment, China's

capital investment, foreign investment, and investment on the mainland China in February 2011, Investment of commission, Ministry of Economic Affairs).

To sum up, we can know the importance of multinational enterprises in Taiwan's social economic system. Hence, the legislation of Anti-Tax Avoidance policies in Taiwan needs to consider charily the influence of multinational enterprises.

4.2. China

Most local large-scale of multinational enterprises in China are state-owned or state-owned holding enterprises. Enhancement of Anti-Tax Avoidance will increase tax burden to foreign-funded multinational enterprises and local multinational enterprises. In fact, it does not have any differences between paying tax and bonus on state-owned enterprises because it transfers its profits to government. In the perspective of profits, enhancement of Anti-Tax Avoidance will have negative influence to foreign multinational enterprises, but it does not have obvious differences of total profits in China. Actually, it only has influence on local private-owned multinational enterprises. First, the quantity of private-owned multinational enterprises is less. Second, the scale is smaller than state-owned enterprises. Above all, enhancement of Anti-Tax Avoidance does not have much obstruction from local multinational enterprises.

4.3. The Economic dominance of Attracting Capital

4.3.1. Tax is an important method for Taiwan to attract foreign capital

The amount of investment, which is from overseas Chinese and foreigner, decreases from 15.4 billion dollars in 2007 to 3.8 billion dollars in 2010. In the situation of losing competitive dominance of attracting foreign-funded, tax incentives are still in an important position to Taiwan's competition.

In addition to the decline amount of investment from overseas Chinese and foreigner, we still can find the importance of tax incentives policies to attract capital from Taiwan's international competitive rank. In the rank of international competition, fiscal policies are an excellent project in the classification of government efficiency. The detailed indexes of fiscal policies include tax accounting for gross domestic product, consumption tax rate, government's external debt accounting for gross domestic product, and etc. All of them are ranked in the front (Li, 2010). We can find the importance of tax policies to Taiwan's international competition. Hence, the government authorities need to

maintain the tax policies for attracting capital, which is the current target, besides the enhancement of every ranking index.

4.3.2. China has other competitive dominance

From the rank of IMD international competition, the dominance of China is economic performance. From 2006 to 2010, the economic performance always maintains top three in the world. That is the main reason why China always is favored by foreign capital. The real GDP maintains almost 10% in recent years. Even though it is in the global economic crisis in 2008 and 2009, the growth rate of real GDP still achieves 9% and 9.1%. Furthermore, the scale of import and export maintains high standard. In 2008 and 2009, the amount of import is 25632.6 million dollars and the export is 22075.4 million dollars. It stably ranks third in the world (The informational resource from National Bureau of Statistics of China-The Yearbook of China Statistics 2009). Foreign capital is optimistic about prospects of future's development because the stable high-speed economic growth. In the future, China will gradually transfer its economic structure from export-oriented economy to economic growth by domestic demand. The large-scale of population in China will become a new dynamics to enhance the economic growth and constantly attract foreign capital.

Tax policies are not the only factor to determine the attraction of foreign-funded. The scale of market, basic construction, the scale of FDI's accumulation, the degree of marketization and human capital have great influence on the attraction of capital (Sun, 2002). Although the efficiency of government, enterprises, and basic construction do not rank in the front, it improves constantly in many perspectives. These things have great attraction to foreign capital as well.

5. Conclusion

We can know that it exists differences of Cross-Strait Anti-Tax Avoidance system through the analysis of Cross-Strait political and economic perspectives. There are main reasons as follows.

(1)From the law's source of Anti-Tax Avoidance, it needs to go through complex process of legislation and amendment in Taiwan; whereas it is commissioned to executive authorities (State Council and tax department) by legislative authority in China. Although the Anti-Tax Avoidance system in China lags behind Taiwan, it can legislate it faster than Taiwan in a short time, and has a perfect Anti-Tax Avoidance system.

(2)The stringent Anti-Tax Avoidance system will undermine multinational enterprises' profits. In the legislative process of Anti-Tax Avoidance system, multinational companies has a great impact on Taiwan, but foreign-funded and private-owned multinational companies do not have great influence on it in China. Furthermore, state-owned companies, which have a great influence, have less obstruction on the legislation of Anti-Tax Avoidance system in China. In this situation, China faces less obstruction than Taiwan when they legislate for the Anti-Tax Avoidance system. Moreover, they can legislate for stricter Anti-Tax Avoidance system.

(3)From the model of economic development, the export-oriented economic system still needs to have constant capital accumulation in Taiwan, and the important source of capital is foreign capital. The stringent Anti-Tax Avoidance will restrain the investment from foreign capital in this region. However, China has accumulated a great amount of domestic and foreign capital. Its dependence on foreign capital is weaker than Taiwan, and it has a request for the quality of capital by the economic transition in the future. Because of the different dependence on foreign capital, it lets China can legislate for more stringent Anti-Tax Avoidance system.

(4)In Taiwan, multinational enterprises have great influence on economy, and the stringent Anti-Tax Avoidance may have great impact on economy, too. Nevertheless, large-scale of local multinational enterprises mostly are state-owned enterprises in China, and the stringent Anti-Tax Avoidance will not have great influences on it. Therefore, Anti-Tax Avoidance can be more stringent in China.

(5)From the aspect of attracting foreign capital, tax policies are an important factor of attracting foreign capital in Taiwan; whereas the economic performance is an important factor of attracting foreign capital in China. The differences of international competitive dominance also cause the result of more stringent Anti-Tax Avoidance system in China.

To sum up, the Anti-Tax Avoidance system in Taiwan is doomed to lag behind China due to the differences of obstruction, dependence on foreign capital, and international competitive dominance.

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