

Study on the taxation problems and strategies of digital commodities in e-commerce

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With the electronic commerce growing rapidly, the expansion of digital commodity transaction scale makes the tax solutions of digital commodity more difficult. There is disagreement on the problems of the attribute of taxation object, the tax jurisdiction definition and the mechanism of tax collection and management. Based on the analysis of the international dispute, and combining with the existing problems in the tax treatment of China, the paper suggests that Chinese government should revise digital commodity tax policy, which clarifies whether digital commodities belong to the service or intangible assets; that online sale of cross-border digital commodities should obey the “consumer (recipient) location” principle and adopt the concept of virtual permanent establishment, implementing reverse taxation mechanism on B2B transactions and the third party tax collection mechanism on B2C transactions; and that the “provider self-declaration and paying tax” mechanism on the in-border digital commodities transaction should be carried out.

Keywords: digital commodities, tax jurisdiction, the principle of levying tax

With the development and application of internet technology, more and more goods and services rely on Internet transaction, forming a rapid development of e-commerce. E-commerce transactions can be divided into online transactions and offline transactions. Online trade refers to e-commerce transactions which all the trading links of delivering goods or services are completed through the Internet.

The key to achieving this transaction is intangible goods and services (i.e. digital commodities) submitted directly through the network from the seller to the buyer, including sending or downloading electronic books, newspapers, audiovisual works, software, information technology services or products etc. Offline transactions refer to the process of negotiation, signing, issuing of documents and payment sent by network, but the transactions of tangible goods or services should be completed by sending through the traditional means of transportation, mailing and site offers.

There is no essential difference between offline electronic commerce and traditional transactions. Therefore, every country followed the basic principle of “no levying new taxes” and collects value-added tax (VAT) or consumption tax according to the

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traditional sales. The tax treatment is developing rapidly, although there are still a lot of problems. In the meantime, the treatment of digital commodities' tax issue is relatively slow. The argument is very fierce about the attribute of taxation object, the tax jurisdiction definition and the mechanism of tax collection and management and so on.

1. The dispute and advice of the digital commodities' attribute

1.1. The international dispute of digital commodities' attribute

There are different opinions concerning digital commodities' attribute. Should it be recognized as "sales of goods" or "sales of service", or "providing intangible assets"? Each country' ideas are relatively different based on their own interest.

The United States takes different stands with this issue depending on the situation. In the domestic law, the digital goods are information or similar products instead of a "goods". However, in international negotiations, the United States insists that digital products belong to the "goods" for its economic and political needs. The reason is the spirit of the liberalization of trade embodied in *the General Agreement on Tariffs and Trade* says that electronic transmission products trade should be included in the trade of goods, at the same time, the tariffs of electronic transmission should be canceled permanently (Shi, 2015).

But some countries and regions, led by the European Union, insist that the digital products should be attributed to the "service". In the report published by the European Commission as early as in 1998 and *The No. 6 Directive to Amend the Value-added Tax* proposed to Council of the European Union in February, 2002, it is clear that the action of providing others some kind of product in the form of data through the electronic network should be considered as a service provided by the value-added tax.... Some products belong to the goods in the sense of value-added tax in its physical form, but it should belong to the labor in the sense of value-added tax when sold electronically.¹ Council of the European Union adopted *The No. 6 Directive to Amend the Value-added Tax* in May, 2002. According to this directive, providing web site, web site host and the remote maintenance of program and equipment, as well as providing software, games, video, data, database using online, belong to electronically services.² Switzerland and Singapore also consider that digital goods should be characterized as "services".³ *The*

¹ Commission of the European Community, E-Commerce and Indirect Taxation, Communication to the Council of Minister, the European Parliament and to the Economic and Social Committee [COM (98)374][“Guidelines”].

² Council Directive 2002/ 38/ EC amending and amending temporarily Directive 77/ 388/ EEC as regards the value-added tax arrangements applicable to radio television broadcasting services and certain electronically supplied services .

³ The Inland Revenue Authority of Singapore, Goods and Services Tax Guide on E-Commerce (31 August 2000); Swiss Federal Administration, Brochure No.61050730 on value-added tax and Telecom Enterprises, June 1998.

Electronic Commerce Tax Framework Conditions passed by The Ottawa Ministerial Conference in 1998 also clarified that: “based on the purpose of consumption tax, providing digital products should not be regarded as providing goods”.

However, Canada, Japan and Brazil claim that the digital commodities should be treated differently in, that some of them are identified as “service”, and a few digital commodities should be identified as “providing intangible assets” (Doernberg *et al*, 2001). If one person who has the copyright of data transmitted the data to others by network, and permitted them to use their digital products in a certain range under the conditions of the payment of the price. The attribute of these transactions is the permission of the right to use the data.

1.2. Discussion and suggestion on the attribute of digital commodities in China

In China, with the full implementation of the “replacing business tax with value-added tax” from May 1, 2016, it is stipulated that both the sale of goods, services, and selling intangible assets belong to the range of value-added tax, but their tax rates are not same. Concerning “sale of goods” of the general taxpayers, the tax rate of selling audio and video products, electronic magazines is 13%, while the tax rate of sale of other goods is 17%. But these services apply to the tax rate of 6% which belong to providing cultural creative services, R&D technical services, information technology (IT) services, authentication services and intangible assets sale. Therefore it is still important on how to define the attributes of digital commodities.

At present, Chinese scholars hold different opinions about this. Liao (2005) advocated all digital commodities belong to providing services. However, according to Chen (2014), it should be treated differently. Formulating the standards according to the nature of the transaction: (1) If the purchase of electronic books, newspapers, magazines, music, video, software and other digital online products gets the right of goods without ownership, it should be regarded as a sale of goods which is same as traditional tangible commodity trading. (2) If the purchase of the use of digital commodities with the ownership of the goods, then it should be recognized as the franchise transfer. (3) Accepting financial, legal, medical, design and other remote online services should be regarded as services provided (Chen, 2014). This proposal is closer to the rules of the value-added tax revised after completing “replacing business tax with a value-added tax”. Literally, it seems to be feasible according to this standard, but it may be difficult to operate in practice. Take the paper magazine and the electronic magazine as an example, consumers can only browse the relevant content of the magazine when buying paper magazines, but if consumers buy an electronic magazine online, they can not only browse the relevant content of the magazine recently but also get the relevant background information’s link service, and can even discuss and exchanges ideas with the editors and other readers online about the

relevant issues instantly. It is usually hard for paper magazine to provide these services. Therefore, if the sales of electronic magazines are classified as “sales of goods” and taxed at 13% tax rate (same as that of paper magazines), that may cause the dispute between the taxpayers and the tax authorities.

So, according to the principle of “easy operation” and the main trend of international tax coordination development, the terms of the value-added tax should be amended with the digital goods sale belonging to “the provision of services” or “intangible assets sales”. If the seller provides the buyer with digital commodities, and meanwhile sets additional restrictions in using and disposing the digital commodities, the trade belongs to “intangible assets sales” for the buyer is limited to copy internally in a certain period and cannot use for commercial sales etc. For example, online technology, trademarks, copyrights, online game virtual props, etc. Then the other digital goods belong to “the provision of services” which can be categorized to the R&D technical services, information technology services, cultural and creative services, logistics support service, verification advisory services according to the nature of the business.

2. Disputes and countermeasures on the tax payment place of digital commodities' turnover tax

2.1. Discussion on the tax payment place of digital commodities' turnover tax in various countries

In general, different countries view the place of supply, labor, consumption and so on as tax payment place when levying value-added tax and consumption tax etc. In traditional transactions, the principle of levying taxation is operated easily without too much controversy. However, the invisible, virtual and international trend of the digital products makes it difficult to identify the tax payment place. For example, John who comes from A country bought a digital product and downloaded to his computer from the server website in B country. Which country levies tax in this case? If B country holds that this trade happened domestically, it would levy a value-added tax based on standard of “server site registry”; and if A country adheres to the standard of “state of the receiver”, it would levy value-added tax. This case violates the principle which turnover tax should only be levied by one side of the transaction and results in double taxation. Conversely, if the two countries hold opposite views, it will cause Non-taxation of both countries, and then lead to tax erosion.

In order to solve this problem, the developed countries have negotiated actively. The Organization for Economic Co-operation and Development (OECD) had several consultation and discussion. Such as Ottawa conference in 1998, *The Problem of the Consumption Tax of Electronic Commerce: The Formulation of International Standards and Recommendations* issued by OECD ninth working group of the Tax

Commission in February, 2001, *International Value-Added Tax / Cargo Service Tax Guide* issued in February, 2006, *A Guide to Levying the Consumption Tax with the International Remote Online Sales of Services and Intangible Assets* issued in January, 2008, etc. And then OECD countries have reached a consensus that tax be levied by the country where the consumer is located, because current cross-border transactions of digital products cannot be levied imported value-added tax by custom in traditional methods (OECD, 2008).

Value-added tax reform program is also complied with the principle of “consumption place levying tax” by European Union countries in February, 2008, it is stipulated that e-commerce, satellite TV, telephone network and other commercial activities will no longer be taxed by the “service provider registered” country, but will be taxed by the country where the consumer is located. In order to coordinate the interests between low tax countries (such as Luxembourg) and regions, the countries where service providers are located still have the right to preserve a certain proportion of value-added tax of the actual service consumption countries. From January 1, 2015 to December 31, 2016, the proportion was 30%, thereafter decreased by 15% per year, and will be abolished completely on January 1, 2019.¹

2.2. Provisions and problems of current tax payment place of digital commodities' turnover tax in China

After “replacing business tax with value-added tax”, locality of value-added tax taxable transactions has also been further clarified in China, transactions are identified as being in-border when the buyers and sellers of services (except renting real estate) or intangible assets (except user's rights over natural resources) are in China; if the sale of goods shipped or located in the territory of China, the sale belongs to domestic sales, and will be levied value-added tax by the Chinese tax department. For the traditional trading, the implementation of these provisions is not difficult, but it is not the same for the digital goods.

As mentioned above, it is not explicitly stipulated in China that digital commodities do not fall into the category of “goods”. So the electronic magazine sales are still treated as “selling goods”, but it is hard for trading the digital commodities to ensure the place of loading or location. The digital commodities are sent, transferred, received through network, it says that buyers whose price were confirmed by sellers or relevant agencies can download purchased-products from the sellers' website directly, or sellers send digital commodities to buyers' receiving system through network. A digital product that is used as a trade mark may be stored on a server at the seller's site or in a

¹ VAT Package: Commission Welcomes Adoption by the ECOFIN Council of New Rules on the Place of Supply of Services and a New Procedure for VAT Refunds, http://ec.europa.eu/taxation_customs/taxation/vat/key_documents/legislation_recently_adopted/index_en.htm.

data warehouse of a certain third party. In this case, may this be ascertained the place of loading or location as simple as traditional goods? If yes, how? Are the loading places of digital commodities the main operating agency of the seller's premises or the business web site of seller where the server is located, or the third parties' data warehouse located? These problems are difficult to grasp in current policies. Moreover, even if we make it clear that shipment of goods is the place of seller's main operating agency or the place which seller set the operating site of business site, the customs cannot levy import value-added tax by controlling customs area with technology,¹ because the digital commodities are delivered and transmitted through the network. Buyers can easily evade the import value-added tax of digital commodities if levied forcibly, as a result of the sale of digital commodities whose subject of the transaction is virtual and hidden.

2.3. Suggestions

In order to avoid unnecessary disputes with the payment place of the data commodity turnover tax, Chinese government should revise the value-added tax law as follows.

(1) It should be clear that the digital commodities are not goods, but services or intangible assets.

(2) To make a regulation clear, cross-border online digital commodity sales should be levied tax in accordance with the "consumer (recipient) location" principle; and to cancel the "provider" principle. The reason is that most developed countries implement the "consumer (recipient) location" principle, double taxation may arise for domestic enterprises selling digital commodities oversea if China sticks to "consumer (recipient) location" principle. Although the current domestic enterprises and individuals providing qualified service in line are levied zero tax rates or free tax to avoid the occurrence of this phenomenon, it is no longer necessary to implement a zero tax rate or free tax if the principle of "recipient location" is adopted. "Recipient location" means the place where the receivers use or utilize digital commodities, if the overseas enterprises and individuals provide domestic enterprises and individuals with overseas consumption of services, which belongs to the oversea sales. Meanwhile, according to the different forms of digital commodities trading, the tax law further clarifies recipient location: ① For digital commodities' trading in B2B forms, recipient location is the place of "commercial presence" of the buyer; ② For digital service trading in

¹ For traditional goods which the oversea sellers sell to the buyer in the territory of China directly, although it does not belong to selling goods in the territory of China, because of its place of loading or location outside Chinese territory. However, the export countries in order to encourage exports, implement the value-added tax zero tax rate or export tax rebates generally, so in accordance with Chinese existing value-added tax regulations and international practice, Chinese customs shall levy import value-added tax when import goods sanded into the customs territory.

B2C forms, recipient location is the habitual residence of the receivers which can be judged by the places of order, payment or the designated consumer banks. But this principle does not apply to the following situation when the parties first set up business institutions to accept online sales of digital services in the tax havens or low tax areas and then supply to associated domestic enterprises free of charge for the purpose of tax avoidance. In this case, the place where actual users are located should be considered to be the recipient location.

(3) The principle of provider location, rather than the principle of recipient location, still applies in the case of providing digital commodities and other e-commerce transactions in China, in order to simplify the tax collection and improve the efficiency of tax collection. For the uneven distribution of tax revenue caused by the unbalanced development of e-commerce in different regions,¹ it should be resolved by changing value-added tax revenue sharing method and improving the transfer payment system. Surely, with the improvement of tax collection and management technology, the principle of recipient location can also be considered for the domestic sale of digital commodities in the future.

(4) E-commerce duty clauses should be perfected. Although there still exists much bifurcation with cross-border e-commerce in the main developed countries such as Europe and the United States, most developed countries exempt cross-border e-commerce tariff. As a developing country, China should not only promote e-commerce tariff sovereignty actively on the basis of its own stage of development of e-commerce, but also should fully consider the fact that current level of tax collection in China is unable to implement cross-border digital commodities' trading ineffectively. Hence, on the one hand, we should add tax provisions on cross-border e-commerce in the tariff policy, and make tax obligations of cross-border e-commerce clearly; on the other hand, we could retain the right of levying tax, and suspend or postpone the imposition of tariffs on cross-border digital commodities. After the maturation of tax collection means and the criteria of identification of income sources become clear, and then we consider the collection of taxes.

3. Problems and Countermeasures of the tax jurisdiction of the digital commodity income tax

Usually, in order to protect the interests of its own tax, a country often combines resident jurisdiction with district jurisdiction to determine the subject of tax payment and income source. The exercise of geographical jurisdiction is mainly judged through the "permanent establishment location", and resident jurisdiction is mainly specified

¹ According to Bai and Zhang (2014), once the e-commerce tax is levied, northeast, northwest and southwest would become a net tax outflow. And east, southern, north and other places would become a net inflow of tax revenue.

through the resident criteria. As for the judgment of resident enterprises, in addition to place of registration standard, it also need real effective management standard. In traditional transactions, the judgment of “permanent establishment” and “effective management” can often be divided by physical presence or human factors, but in electronic commerce, especially the invisibleness and elusiveness of digital commodity trading, makes the standard of physical presence no longer applicable. Therefore, how to effectively determine the income source of the electronic commerce and the judgment standard of resident concept to safeguard the interests of all countries has become the focus of international tax coordination.

3.1. The concept of “permanent establishment” still cannot meet the demand of digital commodity transaction

For a long time, in the international tax coordination, the concept of “permanent establishment” refers to a fixed place of business or business agent for the whole or part of the business. In the state of rapid development of electronic commerce, whether to revise the judgment standard of the permanent establishment, the opinions held by different countries are different. The United States believes that e-commerce and traditional business activities have no essential difference, only in the way of activity there is a difference. Therefore, it is argued that the existing concept of permanent establishment can still be applied to the international e-commerce activities (Zhu, 2000). On this view, Australia is the opposition, holding that if the concept of “permanent establishment” is not revised, it will cause tax loss from the country of origin and also lead to international tax avoidance. Many permanent establishments which use traditional business forms will use electronic commerce to escape definition of permanent establishment.

In order to adapt to the development of electronic commerce, international organizations cope actively. After several meetings, the OECD Model Tax Convention and the UN Model and comment on article fifth 42.1-42.10 section said “server” can constitute a “permanent establishment”. According to this provision, for the server or web site to constitute a permanent establishment the following conditions must be met: (1) It is the business premises where the enterprise carries out business activities ; (2) It must be fixed in space and time; (3) The activities must be the business activities outside the preparatory or auxiliary activities.

But the identification of a permanent establishment is still very difficult, there are many problems, such as if there are no employees, could the server or web site automatically completing business activities constitutes the business place? Whether the server and the web site automatically completing advertising orders, receiving, collection, storage and transmission of digital information and other functions belong to the preparatory or auxiliary activities, and how to judge whether the server or web

site are “fixed” in space and time. In addition, even if the server is identified as a permanent establishment, it is still difficult for the source country to tax nonresident enterprises through the server. Because companies can put the server in the tax havens or lower tax burden country and achieve the purpose of tax avoidance by remote controlling server, so tax avoidance is still serious. Although in some cases, in order to satisfy consumers requirements to quickly download the data products, enterprises also lease or own the servers in the source country, enterprises can still place their business activities overseas through certain arrangements and the server in the source country only conducts auxiliary or preparation activities, in order to avoid the identification of a permanent establishment.

3.2. The concept of “effective management organization” is facing the challenge

Resident tax jurisdiction refers to the fact that a sovereign state establishes the tax jurisdiction in accordance with the personable principle. According to this jurisdiction, a sovereign nation can collect tax on the income of its citizens, whether the income is obtained within or without the nation. In traditional transactions, the judgment of residents is different between enterprise and individual. Enterprises are judged mainly according to the “registration” and “effective management institutions”. Individuals are identified by means of “residence” and “living time standards”. But the virtualization of e-commerce activity space impairs the effect of the standards, resulting in virtualization and decentralization of the management institutions. Any person or enterprise without the approval of the business sector, as long as they pay a registration fee, can get a special domain name on the Internet and arrange commercial activities without tax registration. And there is no need to send senior management, of course, no need for business place and even the board of directors and the shareholders meeting will be held by video conference. As the accounting books and meeting minutes are electronic, places to store paper documents are not necessary. In addition, enterprise production, management and financial departments may be located in different countries. The virtual places of e-commerce activity have increased the recognition difficulty of the management control center, it may exist in many countries, also may not exist in any country. It makes the tax authority difficult to define whether a company is native resident, so that the resident tax jurisdiction loses its meaning.

3.3. China's response

Although the development of information technology in China is rapid and it surpassed the United States in 2004 to become the world's largest exporter of information technology products (UNCTD, 2007), on the whole, as a developing country, we should emphasize regional tax jurisdiction. Therefore, for maintaining the

tax jurisdiction of cross-border digital commodity, it should be focused on recognizing the “permanent establishment”.

At present, China’s current enterprise income tax law clearly lists five standards about the institutions and places of nonresident enterprise, and regards the business agent as the “institutions” in china. However, these provisions are mainly based on the definition of a permanent establishment which made in the United Nations model and the OECD model on the traditional business environment and it has not been suitable for the current e-commerce trading environment. Therefore, many scholars have suggested that China should add electronic commerce permanent establishment standard in the current income tax law and clearly identify server, websites and other Internet service providers’ condition to constitute a permanent establishment, according to the principle of ‘substance over form’. But as section 3.1 analysis points out, this provision in the actual operation is still difficult to grasp.

In order to effectively solve the problem of the permanent establishment, this article advocates the combination of the taxation principle of electronic commerce turnover tax. Since in the value-added tax, we suggest that online sales of the cross-border data goods be levied tax in accordance with the “consumer (recipient) location” principle, so in income tax, this principle should also be followed to identify a permanent establishment. Through the preset sales standards, when a nonresident enterprise’s sales of the data-commodity in china reach a certain size, it can be sure that it has set up a permanent establishment in China. At the same time, the tax bureau can levy enterprise income tax on the cross-border data-commodity by withholding income tax. This rule not only reflects the consistency of the tax law, but also improves the possibility of the actual operation.

As for the cross-border business income that non-resident taxpayers obtain through the traditional business transactions, the existing concept of permanent establishment can be continued, which can be determined by the physical presence or human factors.

4. Discussions and suggestions on the mechanism of tax collection and management of digital commodities

4.1. Discussion on the tax collection and management mechanism of digital commodities

It is very important to determine which kind of the tax collection and management mechanism should be used to adapt to the need of the “receiving party” principle that used by cross-border digital commodities. The ninth working group of the economic cooperation committee has discussed several kinds of the tax collection mechanism: (1) Reverse taxation, that is, the receiving party should determine the taxable amount of digital services or intangible property in accordance with the law and report to the local

tax authorities. (2) Non-resident enterprise tax registration form. In this tax collection mechanism, non-resident enterprises overseas that provide online digital commodities should go to the tax authorities in the recipient country for tax registration. When trading digital commodities, non-resident enterprises should collect the tax payable of the receiving party to pay the tax bureau in accordance with the tax law and tax rates of the recipient country. (3) Withholding at source and transferring payment. The export country of digital commodities stipulates that domestic enterprises selling digital commodities to non-resident overseas should collect value-added tax or consumption tax and pay the collected taxation to the local tax bureau, then the latter pay to the consumer's tax authorities by the international transfer payment mode. (4) Third party tax collection mechanism. This kind of collection requires that the third party (such as a bank or credit card companies and so on) be responsible for tax collection when handling the payment of the digital commodities and pay to the tax authorities in the consumption country (Liao, 2012).

At present, OECD recommended that the reverse taxation be adopted for B2B in the cross-border digital commodity trading, and that B2C take the form of non-resident enterprise registration. Practice of some EU member states shows that, the reverse taxation is feasible and effective. As for the non-resident enterprise registration, it is also feasible if the provider is willing to cooperate. But the problem is that the tax department within the territory could hardly control, if foreign companies do not cooperate. Therefore, in practice, the difficulty of collection may be far more than expected. The collection mode of withholding at source and transferring payment depends on the effective international agreement and taxation assistance between the supplying country and receiving country of digital commodities, otherwise it is unable to implement smoothly. In reality, in the case of a large gap in the information industry development between the two countries, the international agreement is difficult to reach and the international tax assistance arrangements are also very difficult. Relatively, if the third party tax collection mechanism can get a third party's (such as Alipay, bank and other platforms) help, corresponding software can be designed and implanted to related payment software, so as to realize the payment and withholding taxes at the same time. Then this way is effective and feasible. Of course, the tax authorities should pay fees to the third party payment platform.

4.2. Suggestions

Given the situation of China, this paper believes that the reverse taxation mechanism can be used on cross-border B2B transactions of digital commodities. It will be ruled that the domestic enterprises which purchase digital commodities have obligation to pay the corresponding value-added tax and are allowed to enjoy tax deduction according to regulations.

Third party tax collection mechanism should be adapted to B2C. The expenses of consumer payment are listed in two parts: the actual payment and taxable payment, and then the third party platform will pay taxes and dues to the state tax authorities. This process can also be used by technical means on the network platform in real time, the specific process can be reflected in the following Figure 1. As for B2B of the domestic digital commodity trade, the “provider self-declaration and paying tax” mechanism is still adopted. With the fast development of technology, domestic B2C transactions of digital commodities and electronic commerce of tangible products may also adopt the third party tax collection mechanism.

Of course, to ensure the normal operation of the third party tax collection mechanism, the tax authorities must establish a cooperative relationship with the bank and the third party payment platform, establish a sound system of payment. The bank, the third party payment platform and the other government departments actively cooperate with the tax authorities to link the bank, the third party payment platform, the data sharing center to the tax management information system. The Central Bank must have strict supervision over the third party payment platform, determine the establishment of access and control agencies numbers, and regularly review the third party platform qualification to provide transaction information integrity, authenticity and validity, so as to ensure the tax work carried out smoothly. A connection interface must be established between the tax information system of tax authorities and third party payment platform, to achieve the function of automatic calculation taxation and tax deduction.

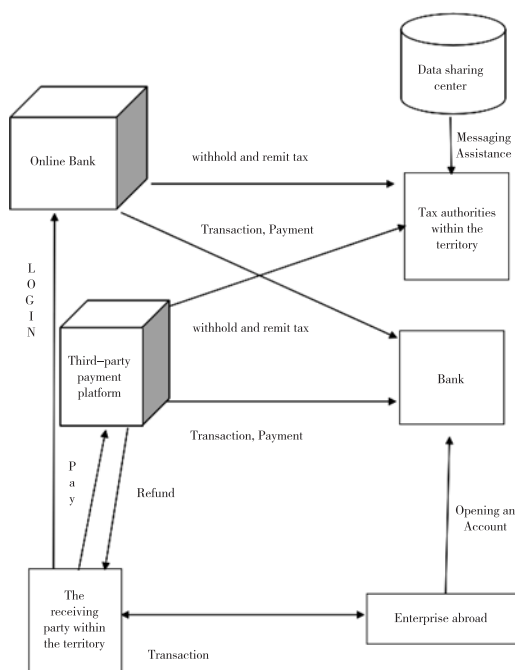


Figure 1. The tax collection of cross-border B2C transactions of digital commodities

5. Conclusions

Based on the above analysis, in order to adapt to the development of online trading of digital commodities, China should respond actively and adjust the relevant tax policies as follows.

(1) It must be clear that the digital commodities are not goods, but services or intangible assets.

(2) It would be defined that the cross-border online digital commodities sales be levied tax in accordance with the “consumer (recipient) location” principle. For digital commodities’ trading in B2B forms, it should be clarified that the “commercial presence” of the receivers (buyers) is the receiving place. For digital service trading in B2C forms, the habitual residence of the receivers should be identified as receiving place. But this principle is not applicable when the parties first set up business institutions or places to accept online sales of digital services in the tax havens or low tax areas and then supply to associated domestic enterprises at no charge for the purpose of tax avoidance.

(3) The principle of provider location still applies in the case of providing digital commodities and other e-commerce transactions in China. The principle of recipient location can also be considered for the domestic sale of digital commodities in the future.

(4) The “permanent establishment” identification standard must be revised. At same time, the concept of virtual permanent establishment can be adopted to the cross border digital commodities. Through the preset sales standards, when a non-resident enterprise’s sales of the digital commodity in China reach a certain scale, it can be sure that it has set up a permanent establishment in China. At the same time, the tax bureau can levy enterprise income tax on the cross-border digital commodities by withholding income tax.

(5) The reverse taxation mechanism can be used to cross-border B2B transactions of digital commodities. Third party tax collection mechanism can be adopted for cross-border B2C transactions of digital commodities. As for domestic B2B transactions of digital commodities, the mechanism of “provider self-declaration and paying tax” is still adopted. With the fast development of technology, domestic B2C transactions of digital commodities and tangible products electronic commerce may also adopt third party tax collection mechanism.

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