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Research on the Development Status of Export Tax Rebate Fraud Policy

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Abstract

Export tax rebate policies hold a key position in international trade and are an important means for the state to support foreign trade. Export tax rebate fraud involves criminals exploiting national export tax rebate policies to illegally obtain refund funds through fraudulent means. This behavior not only disrupts the national taxation system but may also disturb market balance, affecting fair market competition and economic stability. Currently, academic research on export tax rebate fraud is relatively scarce. Therefore, this paper focuses on the behavior of export tax rebate fraud by reviewing national policies, legal documents, and case analyses. It summarizes several issues in China's legal handling of export tax rebate fraud, including insufficient legal basis, inadequate punishment measures, and the need for further refinement of work processes. The article then proposes a series of improvement measures, such as strengthening legal support, increasing punishment severity, and optimizing work processes, to form a comprehensive prevention and control system that includes 'pre-event warning, in-process verification, and post-event tracing.' The aim is to provide references for the formulation and implementation of relevant policies to reduce instances of export tax rebate fraud and protect national interests and market order.

Keywords

Export tax rebate fraud; policy; current situation; issues; countermeasures

1. Introduction

In the context of deepening economic globalization, international trade serves as a crucial engine for promoting economic growth in various countries, and its stable operation is of vital importance. As a key means for countries to support foreign trade, the export tax rebate policy plays an irreplaceable role in enhancing the international competitiveness of domestic goods and optimizing resource allocation. However, with the widespread implementation of the export tax rebate policy, illegal activities such as export tax rebate fraud have emerged, posing a serious threat to national tax security, market fair competition order, and stable economic development.

1.1. Research Background and Significance

he export tax rebate policy, originating in 1985 and continuously adjusted and improved over the years, has become an important component of China's foreign trade policy system. By refunding the value-added tax (VAT) and consumption tax paid on exported goods during domestic production and circulation, the policy effectively reduces the costs of export enterprises and enhances the price advantage of export products in the international market. Since its implementation, China's export trade scale has expanded significantly, growing from $27.35 billion in 1985 to $4.6 trillion in 2023, which is inseparable from the contribution of the export tax rebate policy.

However, export tax rebate fraud has become increasingly rampant. From the shocking Shantou "8・15" Extra tax fraud case in the 1990s to typical cases such as the "Meisuo Company Tax Fraud Case" in recent years, these incidents demonstrate the continuous innovation of fraud means and the expansion of criminal scale. Such behaviors not only lead to massive losses of national tax revenue—according to incomplete statistics, in 2023 alone, 174,000 enterprises suspected of false invoicing and tax fraud were inspected nationwide, involving huge amounts of fraudulent taxes—but also severely disrupt the fair market competition environment, putting law-abiding enterprises at a disadvantage and affecting the healthy development of China's foreign trade economy.

Therefore, an in-depth study of the development status of export tax rebate fraud policies, analysis of current dilemmas, and proposal of effective countermeasures are of great theoretical and practical significance. Theoretically, it helps enrich and improve the theoretical system of export tax rebate policies and tax crime prevention. Practically, it provides a scientific basis for relevant departments to formulate policies and combat fraud, thereby better safeguarding national interests and market order.

1.2. Research Status at Home and Abroad

At present, academic research on export tax rebate policies is abundant, but specialized research on export tax rebate fraud remains relatively scarce. Foreign studies mainly focus on general theories and prevention measures of tax fraud, such as research on VAT fraud. However, due to differences in tax systems and foreign trade policies among countries, the pertinence and applicability of these research findings to China are limited.

Domestic scholars' research on export tax rebate fraud mainly involves the following aspects: analysis of fraud methods (such as illegal acquisition of export agency qualifications, false issuance of VAT invoices, collusion in foreign exchange adjustment, and internal-external collusion to obtain false customs declaration forms), case studies to analyze fraud techniques and harms through specific cases, and discussions on existing legal policies, pointing out issues such as insufficient legal basis and lenient punishment measures. However, existing studies are mostly scattered, lacking systematicness and depth, especially in the combing of policy development status, comprehensive analysis of dilemmas, and effectiveness of countermeasures.

1.3. Research Content and Methods

This paper focuses on the export tax rebate fraud policy, with the main contents as follows: First, it combs the development history of China's export tax rebate policy and analyzes the current status of export tax rebate fraud policies. Second, it deeply analyzes the dilemmas faced by export tax rebate fraud policies, including insufficient legal basis, lenient punishment measures, and the need for further refinement of work processes. Finally, it proposes countermeasures such as strengthening legal support, increasing punishment intensity, and optimizing work processes.

In terms of research methods, this paper mainly adopts the following approaches:

Literature research method: By retrieving national policies, laws and regulations, and relevant academic literatures, it understands the development status and research trends of export tax rebate fraud policies；Case analysis method: Selects typical export tax rebate fraud cases for in-depth analysis to summarize fraud methods and characteristics；Normative analysis method: Combs and analyzes existing laws, regulations, and policies to identify existing problems and deficiencies.

2. Current Status of Export Tax Rebate Fraud Policies

2.1. The development process of export tax rebate policy

Export tax rebate is a reasonable policy arrangement that aligns with international practices and serves as a fundamental measure for countries to promote foreign trade growth. In international trade, the national tax authority refunds the value-added tax (VAT) and consumption tax paid at various production and circulation stages by companies with import and export qualifications

In the early stages of China's reform and opening-up, its foreign trade was just beginning. To encourage domestic enterprises to participate in international market competition and expand export earnings, an export tax rebate policy was implemented. Since the 1980s, China's export tax rebate policy has undergone multiple revisions and improvements over more than forty years, adapting to changes in both international and domestic environments. In March 1985, the State Council officially promulgated the 'Notice on Forwarding the Ministry of Finance’s Regulations on Levying and Rebating Product Tax or Value-Added Tax on Import and Export Products.' The export tax rebate policy began on April 1, 1985. In 1994, the country established an export tax rebate system based on new value-added tax and consumption tax systems. The general VAT refund rate for exported products was 17% or 13%, fully funded by the central government. In 1995 and 1996, the first major adjustment to the export tax rebate policy occurred, generally lowering the rebate rates to three tiers: 3%, 6%, and 9%, with an average product rebate rate of 8.29%. In 1998, the rebate rates for some machinery and electrical products, such as textile machinery and ships, were increased in batches. In 1999, the rebate rates for certain machinery and electrical products, textile raw materials, and finished goods were further adjusted to four tiers: 5%, 13%, 15%, and 17%, raising the average product rebate rate to 15%. Since the reform of the export tax rebate system in 2004, the rebate rates have been adjusted multiple times, along with changes in the burden-sharing ratio between central and local finances. Initially, the central and local governments shared the burden at a ratio of 75% to 25%, which was changed to 92.5% to 7.5% starting January 1, 2005. Since 2004, the export tax rebate policy mainly involved adjustments to the rebate rates, including reductions or cancellations of rebate rates, as well as increases in rebates.

2.2. Current status of the development of export tax rebate fraud policies

On November 15, 2024, the Ministry of Finance and the State Administration of Taxation jointly issued a notice to adjust the export tax rebate policies for certain industries, including: 1) The cancellation of export tax rebates for products such as aluminum materials, copper materials, and chemically modified oils and fats derived from plants or microorganisms; 2) The reduction of the export tax rebate rate for certain refined oil products, photovoltaic products, batteries, and some non-metallic mineral products from 13% to 9%. The new regulations will take effect starting December 1, 2024.

Table 1. The development process of China's export tax rebate policy

Development process	Time	policy content and changes
Formation stage	From 1985 to 1993	The content mainly involves product taxes, value-added taxes, and consumption taxes, adjusting the refund burden mechanism for central and local finances.
Development stage	1994	Establish an export tax rebate system based on new value-added tax (VAT) and consumption tax systems. The general VAT refund rate for exported products is usually 17% and 13%, with the full cost of the VAT refunds borne by the central government.
	From 1995 to1996	Establish an export tax rebate system based on new value-added tax (VAT) and consumption tax systems. The general VAT refund rate for exported products is usually 17% and 13%, with the full cost of the VAT refunds borne by the central government.
	From 1998 to 1999	Establish an export tax rebate system based on new value-added tax (VAT) and consumption tax systems. The general VAT refund rate for exported products is usually 17% and 13%, with the full cost of the VAT refunds borne by the central government.
Adjustment stage	From 2004 to 2024	During this period, the export tax rebate rates and the proportion of central and

		local government burdens were adjusted multiple times.
	2004	The export tax rebate rates were adjusted multiple times, with the central and local government fiscal burdens shared at a ratio of 75%:25% in 2004.
	2005	The central and local government fiscal burdens were shared at a ratio of 92.5%:7.5%.
In recent years, export tax rebate policies	November 2024	Adjustments were made to the tax rebate policies for certain export industries, including: 1) the cancellation of tax rebates for aluminum products, copper products, and chemically modified animal or plant oils and fats; 2) reducing the export tax rebate rates for certain refined oil, photovoltaic products, batteries, and some non-metallic mineral products from 13% to 9%.

Export tax rebate fraud involves criminals exploiting national export tax rebate policies by using fraudulent means such as falsely reporting product raw materials, fabricating export transactions, forging or tampering with export documents at various stages of implementation to defraud state export tax rebates. This criminal act infringes upon the state's public property ownership and tax administration system, with the perpetrator being a special taxpayer who knowingly causes state tax losses through such actions. Since the implementation of the export tax rebate policy, fraud cases have been frequent. A typical case is the massive false issuance of value-added tax special invoices and export tax rebate fraud in Shantou on August 15th. From the mid-1990s, smuggling activities along the southeast coast became rampant, reaching their peak by the late 1990s, when they even colluded with corrupt customs officials to commit crimes together, becoming increasingly brazen. In 1998, a central task force was sent to Shantou for investigation, conducting thorough investigations with the aim of not leaving until the truth was uncovered. In April 1999, the Discipline Inspection Group and Supervision Bureau of the General Administration of Customs received a 74-page report letter revealing that the Xiamen Yuanhua smuggling crime group had smuggled goods worth 50 billion yuan using various methods, known historically as the 'Xiamen Yuanhua Case'. After major smuggling cases in Zhanjiang and Xiamen were cracked down on, criminal activities in the Shantou area shifted to the lucrative path of export tax fraud. The Shantou smuggling group exploited loopholes in national policies, establishing a series of 'shell' companies with import and export qualifications, issuing false value-added tax invoices, creating fake cargo customs declarations, and laundering money through underground banks to transfer funds to overseas accounts, constituting export goods receipts. Additionally, they colluded with customs personnel to form complete export documentation to obtain state export tax rebates. Starting in the second half of 1999, to counteract the financial crisis and further encourage exports, the country increased the export tax rebate rate, stimulating criminals to commit more heinous acts. In 2000, the state dealt with individuals involved in the 'Xiamen Yuanhua Case'. In July of the same year, the task force made significant progress and planned to withdraw from Shantou, causing great fear among the criminals. Therefore, on the day before the task force withdrew, a fire broke out in the hotel where they stayed, resulting in five deaths and three injuries. On August 7, 2000, the State Council Premier's office meeting decided to establish a task force to combat export tax fraud, consisting of 13 departments including the State Taxation Administration, Ministry of Public Security, Supervision Department, and Ministry of Finance, forming the '807' task force to investigate export tax fraud in Chaoshan. On September 4, the '807' task force dispatched 64 teams to inspect hundreds of initially identified enterprises, uncovering 231 fake enterprises and 65 suspected tax fraud enterprises in one day. The '807' task force uncovered 16 cases of false issuance of value-added tax special invoices, with the criminals issuing a total amount of 323 billion yuan in value-added tax and defrauding 42 billion yuan. This case severely affected the development momentum of the Shantou Special Economic Zone, which was then rapidly developing to rival Shenzhen, fundamentally altering its historical development trajectory and severely damaging its economic reputation and investment environment.

2.3. Export tax rebate fraud methods

Several methods of export tax rebate fraud have been summarized by scholars, mainly including: one, illegally obtaining qualifications for export agency business; two, issuing false or proxy value-added tax invoices; three, colluding with domestic and foreign unscrupulous merchants and foreign trade enterprises to illegally adjust foreign exchange; four, collusion inside and outside, illegally obtaining export cargo customs declaration forms stamped with the customs inspection seal. In response to the increasing cases of export tax rebate fraud, China has proposed provisions under Article 204 of the Criminal Law of the People's Republic of China regarding the criminal liability and specific criminal penalties for defrauding state export tax rebates; detailed interpretations on the conditions for determining export tax rebate crimes and amount standards are provided in Articles 3, 4, and 5 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in Handling Cases of Defrauding Export Tax Rebates; Articles 7 and 8 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases Involving the Harm to Tax Administration; and Article 66 of the Tax Collection and Administration Law clearly stipulates administrative penalties for fraudulent export tax rebate behavior, including recovery of tax rebates, fines, and suspension of export tax rebate processing for a certain period. However, due to the complex processes involved in export tax rebate fraud and the difficulty in qualitative determination, there are still many deficiencies in current measures to address such issues. For example, the 'Meisuo Company Tax Fraud Case' is a typical case of export tax rebate fraud. In 2012, Huang from Meisuo Company instructed others to set up multiple companies in Ningxia and other places, inflated the prices of wool and cashmere through these companies, purchased raw materials from them, pretended to buy 'cotton yarn' and other raw materials at low prices from the production areas, issued false cashmere-related input VAT special invoices to refund VAT, and falsely reported ordinary 'wool yarn' as 'cashmere yarn' at high prices for self-operated and entrusted exports. Additionally, Huang colluded with two Hong Kong individuals to receive goods overseas and conduct illegal foreign exchange transactions, forming a complete capital chain, creating a facade of legitimate exports. Over four years, the company exported over 7 billion yuan and defrauded the state of 870 million yuan in export tax rebates. The division of labor was very clear, involving fictitious raw material procurement, issuance of false VAT invoices, and collusion with domestic and foreign unscrupulous merchants and foreign trade enterprises to illegally adjust foreign exchange, revealing the complexity and concealment of export tax rebate fraud. The case also highlighted regulatory weaknesses, as fake invoices passed through regulatory reviews. Between 2014 and June 2019, He Bin and Huang Ping used the names of S Company and two other companies to forge purchase and sale contracts and obtain false VAT special invoices through others to defraud the state of 151 million yuan in export tax rebates without genuine commodity transactions. This indicates significant loopholes in document review in China, making it difficult to determine their legality and authenticity, and currently, document and invoice-based export tax rebate fraud accounts for a large proportion, necessitating urgent solutions.

3. The dilemma of export tax rebate fraud policy

3.1. The legal basis is insufficient.

The author mentioned earlier that in response to the incessant cases of export tax rebate fraud, China has issued multiple laws and regulations, such as the 'Criminal Law of the People's Republic of China'; 'Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in Handling Criminal Cases of Fraudulent Export Tax Rebate'; 'Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases Endangering Tax Administration'; 'Tax Collection and Administration Law'; and other relevant laws and regulations issued by the State Administration of Taxation, Ministry of Public Security, and General Administration of Customs regarding export tax rebate fraud. These laws and regulations form the core documents of the legal framework for export tax rebate fraud in China. It is evident that laws related to export tax rebate fraud in China are scattered across different departmental rules and normative documents, lacking unified legal support, which results in insufficient rigidity.

For example, Article 204 of the 'Criminal Law of the People's Republic of China' stipulates crimes of fraudulent export tax rebate and tax evasion: those who defraud the state of export tax rebates using false declarations or other deceptive means, in significant amounts, shall be sentenced to fixed-term imprisonment of no more than five years or criminal detention, and fined one to five times the amount of the defrauded tax; for particularly large amounts or other serious circumstances, they shall be sentenced to fixed-term imprisonment of more than five years but less than ten years, and fined one to five times the amount of the defrauded tax; for exceptionally large amounts or other particularly serious circumstances, they shall be sentenced to fixed-term imprisonment of more than ten years, life imprisonment, and fined one to five times the amount of the defrauded tax or have their property confiscated. If taxpayers, after paying taxes, use the aforementioned deceptive methods to defraud the paid taxes, they shall be punished according to Article 201 of this law; for the part of the defrauded tax exceeding the paid tax, they shall be punished according to the aforementioned provisions. This article clearly specifies the criminal liability and applicable penalties for export tax rebate fraud, but the determination of the crime originates from the 'Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases Endangering Tax Administration', while administrative penalties for export tax rebate fraud are scattered in the 'Tax Collection and Administration Law'.

3.2. The punitive measures are not stringent enough.

China's penalties for export tax rebate fraud are relatively lenient. Although the Criminal Law of the People's Republic of China stipulates punishments, in actual practice and during the punishment process, compared to the severity of the penalties prescribed by the Criminal Law, relevant laws and regulations in China do not comprehensively or specifically define the crime of defrauding export tax rebates. The application for export tax rebates typically requires submitting various documents such as customs declarations, export sales invoices, purchase invoices, settlement certificates or receipts, product tax certificates, proof of verified export tax rebates, and other related materials. This makes it difficult to form a complete chain of evidence in the process of identifying the crime of export tax rebate fraud. Additionally, due to the high rate of export tax rebates in China, it is very easy to 'attract' unscrupulous individuals. Therefore, in practical operations, the deterrent effect on unscrupulous individuals may fall short of expectations. According to relevant policies in China, fines for enterprises committing export tax rebate fraud usually range from one to five times the amount of the defrauded tax. However, compared to the substantial benefits that large enterprises can obtain through export tax rebates, these fines may not be sufficient to deter enterprises. As a result, after weighing the pros and cons, some enterprises may still choose to engage in illegal activities.

3.3. The workflow needs further refinement.

The process of export tax rebate is very complex, involving numerous stages, which allows for more opportunities for fraudulent activities. Firstly, there are many export tax rebate policies with a high number of specialized terms that are difficult to understand, potentially leading to misunderstandings for enterprises. Secondly, the declaration process involves multiple stages, and any slight mistake in preparing documents or executing policies can halt the entire process, increasing the actual operational difficulty of export tax rebates, reducing efficiency, and making fraudulent behavior more likely. Lastly, since export tax rebates involve multiple state agencies, there is a possibility of information lag between different departments, meaning that if information sharing is not timely, it may result in law enforcement authorities being unable to promptly identify fraudulent activities. Therefore, it is necessary to optimize work processes, improve the transparency of the export tax rebate process, and address issues related to delayed information sharing.

4. Measures to Address Export Tax Rebate Fraud Policies

4.1. Strengthen legal support

Elevate export tax rebate policies from departmental regulations to the legal level, unify the relevant laws and regulations concerning the crime of fraudulently obtaining export tax rebates, making them more convenient and understandable to apply, enhancing consistency between policy and enforcement, and strengthening legal uniformity. Increase the rigidity of the policy, detail the constituent elements and determination criteria for this offense, and reduce legal ambiguity. Enhance professional training for relevant law enforcement officers, improve their judicial competence, making them more professional when dealing with various cases of fraudulent export tax rebates, thereby increasing enforcement efficiency and reducing the probability of evasion or exemption from punishment.

4.2. Increase penalties

In legislative terms, the statutory penalties for the crime of fraudulently obtaining export tax rebates can be increased, such as raising the minimum sentence further or adding restrictions such as no parole on the maximum sentence. Additionally, increase the fines. For example, modify the fine calculation based on illegal gains, changing the penalty multiplier from one to five times the amount of the fraudulently obtained export tax rebate to five to ten times or more, enhancing the deterrent effect on lawbreakers, making them hesitate when weighing benefits against risks. Furthermore, expand the scope of penalties for export tax rebate fraud. Not only should those who fraudulently obtain export tax rebates be punished, but also those involved in the process, including fictitious contract participants, companies and intermediaries providing false documents and certificates, as well as individuals and entities providing financial accounts for illegal activities.

4.3. Optimize workflow

Simplify work processes, reduce unnecessary steps, and improve process efficiency. Build an integrated information sharing platform to further refine the division of labor among various departments. By constructing an integrated information sharing platform that involves national agencies such as tax authorities, public security, and customs in the export tax rebate process, real-time data sharing can be achieved. This platform can also be used for filing various certificates and documents, effectively avoiding issues caused by improper material management, such as difficulty in comparing materials, inability to verify the authenticity of certificates, and repeated application. Strengthen inter-departmental collaboration, clearly define the specific responsibilities of each department to avoid resource waste, so that all departments can access relevant information on export tax rebates in real time, conduct queries and comparisons, promptly identify and address illegal activities, enhance work efficiency, and improve interdepartmental cooperation.

5. Summary

Since 1985, China's export tax rebate policy has undergone multiple adjustments and serves as a crucial tool for supporting foreign trade. However, since its implementation, fraudulent activities to claim export tax rebates have frequently occurred, making it difficult for genuinely deserving enterprises to obtain the necessary policy support, thereby hindering their competitiveness in international markets. This paper focuses on researching the policy of export tax rebate fraud, aiming to analyze the current situation, identify issues, and propose improvement strategies to safeguard national taxation and market order. It is believed that in the near future, through policy adjustments, joint enforcement by law enforcement agencies, and the establishment of an integrated information sharing platform, China's legal policies and regulations regarding export tax rebate fraud will become increasingly detailed, and the level of law enforcement will continue to improve.

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