

Legal Economics Perspectives on Hainan Island Duty Free “Sets of Generation Purchase” Study on Long-term Mechanism for Comprehensive Management of Smuggling

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Abstract: Legal economics suggests that decision makers are rational, and this includes lawbreakers. The implementation of Hainan free trade port off-island duty-free policy has played a positive role in the economic development of Hainan and the reform and development of the country, but due to the existence of the current law on “set of generation purchase” smuggling chain in the definition of the main culprits is not clear enough, the severity of the law and the lack of certainty in the punishment, the local economic development is relatively backward, resulting in the existence of villagers with a strong incentive to “set of generation purchase” smuggling behavior from time to time. For reasons such as “set generation purchase” smuggling motivation, Hainan island duty-free “set generation purchase” smuggling behavior occurs from time to time. In order to make the “set of generation purchase” smuggling comprehensive management more effective and long-lasting, the author combined with the relevant research, the use of legal economics in the cost-benefit model of the violation of law, analyze Hainan off-island duty-free “set of generation purchase” smuggling subject of the illegal cost and benefit, in order to find the cost of violation of the law. In order to find out the illegal cost - benefit ratio imbalance, “set of generation purchase” case repeatedly prohibited reasons, and put forward by reducing the expected illegal benefit, improve the expected opportunity cost and punishment cost to change the “set of generation purchase” smuggling. It also proposes to change the cost-benefit structure of the “water customers” by reducing the expected illegal benefit and increasing the expected opportunity cost and penalty cost, and to establish a long-term mechanism for the comprehensive management of the smuggling of the “set of substitute purchases” of Hainan’s off-island duty-free, so as to contribute to the healthy development of Hainan’s free-trade harbor.

Keywords: off-island tax exemption; “set-aside” smuggling; legal economics; comprehensive governance

Introduction:

The duty-free policy for outlying islands is one of the important supporting policies of Hainan Free Trade Port. According to the statistics of Haikou Customs, since the implementation of the new policy of duty-free shopping in Hainan since July 1, 2020, Haikou Customs supervised a total of 130.7 billion yuan of duty-free shopping. Duty-free policy dividends not only attracted thousands of tourists to Hainan, but also “attracted” a large number of lawbreakers waiting for the opportunity to use others to purchase duty-free shopping quota, the organization of gangs to buy duty-free goods for secondary sales profit, resulting in the use of duty-free policy and the implementation of the “set of generation purchase”. This has led to a surge in the number of illegal and criminal cases involving the use of the duty-free policy.

The term “set of generation purchase” is a collective term for both set purchase and generation purchase. Sets of purchase refers to the use of other people’s names and the use of other people’s quota to purchase duty-free goods; generation purchase is the use of one’s own quota for the purpose of profit-making for other people to purchase duty-free goods or the purchase of duty-free goods in the domestic market for secondary sales behavior. In this study, the author analyzes the illegal cost and benefit of the smuggling subject of Hainan’s outlying island duty-free “set of purchasing on behalf of others”, in order to find the reasons for the imbalance of the cost-benefit ratio and the repeated occurrence of the cases, and puts forward corresponding countermeasures to change the cost-benefit structure of “water customers” smuggling, and to improve the cost-benefit structure of “water customers” smuggling. Hainan island duty-free “set of generation purchase” smuggling of comprehensive management of long-term mechanism toward the “unified leadership of the party and government organs, all parties to pay attention to co-management, enterprises to enhance self-restraint, the active participation of the people, the legal system continues to improve, public opinion guidance continued to strengthen” ideal state of realization of new ideas, for the Hainan island duty-free “set of generation purchase” smuggling of new ideas. Provide new ideas to realize and help the healthy development of Hainan Free Trade Port.

1. Description of the theoretical model of cost-benefit of violating the law from the perspective of legal economics

According to the theory of legal economics, decision makers are all rational, which also includes lawbreakers, that is to say, in the theory of legal economics profit-seeking illegal activities are regarded as an economic activity. The rational subject pursues the maximization of interests, and the profit-seeking lawbreaker, before committing an illegal act, makes the decision of whether to commit the illegal act or not after rationally balancing all kinds of costs to be invested and all kinds of benefits to be gained from the act. Legal economics advocates the use of economic principles and methods of economic analysis to study the economic and other interest factors and profit-seeking lawbreakers consciousness of the interaction of the law and to explore the prevention and control of illegal countermeasures, which for the Hainan islands duty-free “set of purchasing” smuggling of the long-term mechanism for the establishment of a comprehensive management of the ideas provided.

Under the perspective of legal economics, the illegal cost of “set generation purchase” smuggling can be divided into the direct cost of violation of the law, the opportunity cost and the cost of punishment, and the benefit of violation of the law can be divided into the implementation of the illegal behavior of the economic gain and spiritual gain (“set generation purchase” smuggling behavior of the illegal gain is mainly for the economic gain).

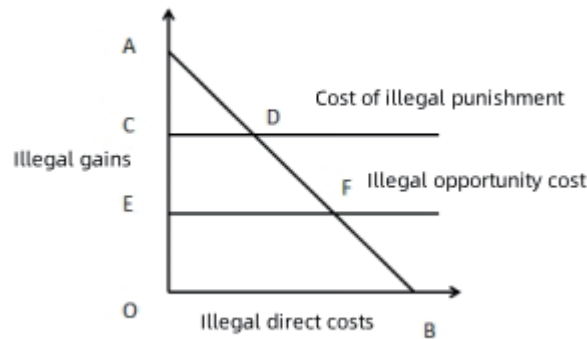


Figure 1 Revenue and Cost Model

As shown in Fig. 1, the direct cost of violating the law and the benefit of violating the law are used as horizontal and vertical coordinates, respectively. The economic benefit of the profit-seeking offender in the limit state is the area of triangle AOB. Due to the existence of the opportunity cost of violating the law, the ultimate economic gain of the profit-seeking violator will be reduced to the area of triangle AEF. The existence of penalty cost depends on whether the corresponding illegal behavior of the offender is detected and punished by the law enforcement agency, but when the penalty cost is taken into account, the final economic gain of the offender will be reduced to the area of triangle ACD.

As the penalty cost (CD line) rises, the economic gain from the violation of the law represented by the area of the triangle ACD decreases. When the cost of illegal punishment is large enough, the CD line continues to rise to reach point A, illegal final economic gains will be 0. Rational lawbreakers on the size of the cost of illegal punishment of the prior assessment of the weighing is usually based on the kind of illegal activities at this stage of the certainty of investigation and punishment or conviction and severity. Therefore, this paper mainly analyzes the relationship between the illegal cost (direct cost, opportunity cost, punishment cost) and the illegal economic gain of the smuggling subject of Hainan’s off-island tax exemption “set of purchasing on behalf of”.

2. Legal and economic analysis of Hainan’s tax-free “set of generation purchase” smuggling.

2.1 Hainan island duty-free “set generation purchase” smuggling illegal gain analysis.

Illegal gains refers to the benefits that the offender may get through illegal activities. In this study, the main body of smuggling is mainly divided into ants moving “water guest” and employing “water guest” behind the scenes of the owner, these two types of people have different degrees of economic gain. Behind the scenes of smuggling owners of economic gains from drilling policy loopholes to evade state taxes, earn Hainan duty-free market price differentials, the sale of free gifts, points exchange income. For example, in May this year, Shenyang Customs successfully cracked a use of Hainan’s duty-free policy to smuggle duty-free goods in the form of false trade in a megacase, the value of 70 million yuan, suspected of tax evasion of 13 million yuan, a huge profit margin. The “water guest” can be divided into autonomous with goods “water guest” and OEM with goods “water guest”, the former is the use of their own tax-free quota to Hainan to buy duty-free goods after the second sale for profit! The former is a person who uses his duty-free quota to buy duty-free goods in Hainan and then sells them twice for profit. The former is a person who uses his duty-free quota to buy duty-free goods in Hainan and then sells them twice for profit, and the former is a person who uses his duty-free quota to buy duty-free goods in Hainan and then sells them twice for profit. The economic gains of “parallel traders” mainly come from the corresponding “one price” fee.

2.2 Analysis of the cost of smuggling violations of Hainan’s off-island tax exemption “set of purchases on behalf of the purchase”

2.2.1 Direct cost analysis.

The direct cost of violating the law is the cost that the offender must invest in order to create illegal conditions, implement illegal activities and achieve illegal purposes. Because of the behind-the-scenes smuggling consignor contracted to bring goods on behalf of “parallel traders” who eat, drink, live and travel expenses and duty-free purchase costs, so for these “parallel traders”, the direct cost is almost zero; for the behind-the-scenes smuggling consignor, the direct cost includes hiring a number of people responsible for For the behind-the-scenes smuggling owners, the direct costs include the costs of hiring some intermediaries responsible for recruiting and organizing “parallel traders” to carry out “set of purchases” such as “head of the parallel traders”, the costs of collecting goods for transportation, the costs of food, drink, accommodation and transportation for “parallel traders”, and the costs of purchasing duty-free goods. The costs of hiring intermediaries such as “smugglers’ chiefs” who are responsible for recruiting and organizing “smugglers” to carry out “set purchases”, the costs of collecting

and transporting goods, the costs of food, drink, housing and transportation of “smugglers” and the rewards of substituting for them, and the payment for advances on duty-free goods, etc., are relatively inexpensive compared with the profits from “set purchases”.

2.2.2 Opportunity cost analysis.

Opportunity cost refers to the use of a resource for a particular purpose to give up the use of the resource in other uses can obtain the maximum benefit. In the perspective of legal economics, “set generation purchase” smuggling of illegal opportunity cost refers to the offender if the time, money, energy and other resources into the “set generation purchase” smuggling, will inevitably lose these resources into non-illegal profit-seeking activities and may get the corresponding benefits. Corresponding gains. And the vast majority of “set generation purchase” ants moving “water passenger” most of the social bottom of the people, with employment income fluctuations, family support system is weak, lower education level and the lack of social connections and other characteristics, so that this type of people’s illegal expected The opportunity cost for such persons to violate the law is very small.

2.2.3 Analysis of punishment costs.

Punishment cost refers to the sum of legal sanctions, administrative penalties, economic compensation and other costs that an enterprise or an individual needs to bear when engaging in illegal activities, which may include fines, imprisonment, loss of social credibility and so on. In the investigation and handling of the smuggling of “set of generation purchase”, the corresponding penalties, such as the confiscation of the purchased duty-free goods, credit lowering, high fines, and even the loss of income that could have been earned outside of prison due to imprisonment. The penalty cost of “set of generation purchase” smuggling only arises when the offender’s illegal activities are discovered by the law enforcement authorities and pursued by the judicial authorities. Factors affecting the level of penalty costs mainly lie in two points: the severity and certainty of the legal penalties, but in the investigation and punishment of the off-island duty-free “set of substitute purchasing” smuggling, the legal “severity” and “certainty” still have not much to improve. “There is still much room for improvement.

3. Countermeasures for the comprehensive governance of Hainan’s off-island tax exemption “set of substitute purchasing” smuggling under the perspective of legal economics.

3.1 Accelerate the construction of the comprehensive governance pattern of “set of generation purchase” smuggling, and reduce the expected illegal gains.

It has always adhered to the new era of socialism with Chinese characteristics as a guide, and improved the integrated risk management pattern of “management, prevention, combat and treatment”. Establish and improve the standardized and practical traceability management system, strengthen the traceability code in the field seizure, market inspection and other practical aspects of the application of reverse traceability, reverse line of investigation, lock the “water customers” group, find out the smuggling illegal gangs. Relevant departments should strictly fulfill their duties, give full play to their respective advantages, strengthen regional joint prevention and control, and strictly prevent smuggling gangs from using various channels to smuggle “zero-tariff” commodities out of the island, make it more difficult to smuggle “sets of purchases on behalf of others”, and reduce the expected profits of lawbreakers.

3.2 Strictly penalize the illegal act of smuggling “in lieu of purchase” and raise the expected cost of punishment.

Reinforce the severity of sentencing, it is recommended to adjust upward the range of punishment of the main sentence, extend the main sentence, strictly control the practicality of probation, reduce the proportion of probation application. The strength of fines should be adjusted upward, and the principle of appropriateness of crime and punishment should be followed, so as to reduce the number of cases of abnormally light fines. Strengthen information sharing among law enforcement agencies, and implement “three-time sentencing”. Improve the credit management mechanism, increase the strength of joint punishment, deepen the anti-smuggling joint prevention and control line of defense, and raise the expected cost of punishment for the smuggling behavior of “set of substitute purchases”.

3.3 Promote Zhanjiang and Hainan to develop their economies in the same direction, and increase the opportunity cost of violating the law.

Constructing a multi-dimensional pattern of tax exemption for off-island tax exemption, digging deep into the consumption potential, creating more attractive supporting facilities and supporting services, pulling the employment of the people in Hainan, especially those in economically underdeveloped areas near the seaport, and enhancing social connections to suppress their illegal motives for utilizing geographic advantages and being forced to engage in the smuggling of “sets of substitute purchases” for their livelihoods. Vigorously develop the economy, for the relevant local people to provide more employment opportunities, improve the income level of legitimate occupation and the value of legitimate labor to obtain legitimate gains evaluation, reduce the “waterborne” smuggling to obtain illegal gains of social evaluation, so that the opportunity cost of violation of the law actually affect the potential “waterborne” rational choice. The opportunity cost of violating the law actually affects the rational choice of potential “smugglers”.

3.4 Increase policy publicity for Hainan’s off-island duty-free “set of substitute purchasing” potential illegal groups, and raise the level of law-awareness and compliance among the relevant groups.

Invite legal experts to the two sides of the Qionghai Strait to conduct research and guidance on the front line of the fight against “set generation purchase”, comprehensively strengthen the policy and regulations training of law enforcement officers, improve the level of law enforcement related to law enforcement officers to know the law and understand the law and use the law, and lay a solid foundation for the accurate popularization of the law. Actively expanding the “six” into the law to promote the breadth of the mission. Promote the construction of county (city), township, village committees of the three-level anti-smuggling prevention and control mechanism and legal literacy mechanism, increase efforts to organize and carry out legal literacy propaganda into schools, communities, towns and villages, ports

(stations), enterprises, travel agencies, “six” activities, and actively mobilize the masses to participate in the fight against preventing the outlying islands duty-free. Actively mobilizing the masses to participate in combating and preventing the smuggling action of “set generation purchase”. Through the use of television broadcasting, slogans, signs, new media and other means, in the fight against “set of generation purchase” in the various regulatory links for different smuggling groups to carry out joint law, the formation of a strong anti-smuggling law propaganda and education momentum, and actively promote civilization, integrity of consumer awareness, and strive to form the main body of the law-abiding enterprises, the whole population refused to participate in the consciously report the “set of generation purchase” smuggling action. We are striving to form a favorable environment of the rule of law in which enterprises abide by the law and all people refuse to participate in and consciously report the smuggling of “sets of substitute shopping”, so as to jointly safeguard the “golden brand” of duty-free shopping on the outlying islands.

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