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Tax teeth on individuals – a hard lesson learnt

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In brief

» Recent landmark penalties handed down to individuals by local tax authorities have given teeth to tax bills in China.

» In the most recent case, a live-streaming celebrity was slapped with a hefty fine of CNY 1.34 billion (EUR 181 million) for tax evasion.

» This newsletter studies how an individual ended up in a tax evasion situation and what it means to taxpayers and the management in general.

Feedback

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In detail

Four jaw-dropping tax evasion cases involving Chinese individuals were put in the spotlight recently in China's media, since the national crackdown on tax evasion by sky-high remuneration earners, including movie stars, entertainers, livestreamers, and their managers.

- In late August 2021, a Chinese TV actress, Zheng Shuang, was slapped with a CNY 299 million (EUR 41.38 million) penalty for tax evasion by the Shanghai tax authority.
- In mid-October 2021, Zheng's manager, Zhang Heng, was fined by the Shanghai tax authority CNY 32.27 million (EUR 4.47 million). Zhang was held accountable for splitting the actress's 160-million-yuan contract into two to evade taxes.
- In November 2021, two livestreamers, Cherie Zhu and Lin Shanshan, were ordered by the Zhejiang tax authority to pay taxes and penalties totalling CNY 94 million (EUR 13 million).
- In late December 2021, Huang Wei (better known as Viya) was ordered to pay penalties and overdue taxes of CNY 1.34 billion (EUR 181 million) by the Hangzhou tax authority. Viya is a top e-platform livestreamer focusing on apparel, food and beverage products, as well as daily groceries. She was found setting up shell companies to evade taxes over commissions she earned from her top-grossing sales.

Tax planning helps or harms?

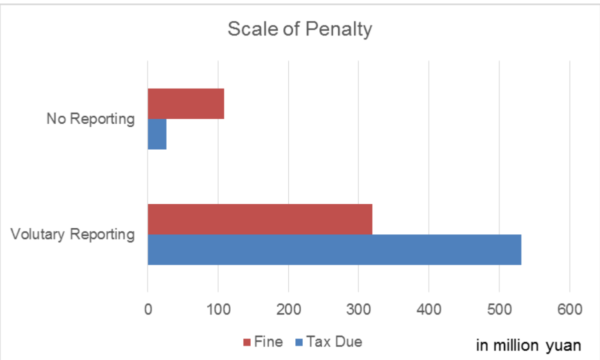
What is typical in these cases is the use of aggressive tax planning arrangements to evade taxes, such as splitting a contract and hiding the income by means of fake transactions or shell companies.

It is interesting to note that some cases were identified by the tax authorities with the help of high-tech tools and all-in-one data monitoring means. They are found especially efficient in an e-platform economy in which real-time sales data is digitally accessible at all times.

Tax evaders are particularly vulnerable to the inspection by the tax authorities who are empowered by anti-tax avoidance legislation to assess whether aggressive tax planning exists or not. Once an administrative order is passed down to a taxpayer, the payment must be settled, even though a taxpayer may raise an appeal against it. The taxpayer could even be subject to criminal charges if not following the payment order.

Voluntary reporting saves or sours?

Despite a surge in voluntary reporting as an aftermath of the said cases, it is not surprising to see that some could still hesitate to hand in themselves without fully understanding the significance of self-reporting.



The treatment in Viya's case has flagged a warning signal to tax evaders: the more confrontation, the higher the penalty.

It should be noted that the 109-million-yuan penalty imposed on Viya was charged at a high rate of 400% based on the overdue taxes, which could be as low as 60% if she offered cooperation upfront and voluntary disclosure.

Penalty on taxpayers only?

One should not assume that a tax evasion penalty applies only to taxpayers or at most tax withholding agents. The tax authorities are empowered by the “Tax Collection and Administration Law” to impose a penalty on also any “other parties or individuals” considered as an accomplice in a case. It is believed that by virtue of this regulation, a few months later after Zheng’s misfortune, her manager also faced an investigation and was charged as the mastermind for the actress’s fraud. He was then fined CNY 32.27 million (EUR 4.47 million) for his unlawful income and a penalty at 75% of overdue taxes.

WTS China’s observation

One should recognize that curbing abusive tax planning has nowadays become the norm of tax administration. The crackdown has now taken aim at individual income tax. Any attempt to push the limit of acceptable tax planning is actually putting not only the taxpayers at risk but also the employers, the managers, the agents, and even the advisors.

Professional assistance is advised when it comes to cases suspicious of crossing the line into tax evasion or being a deliberate contravention of the law. One useful means for self-protection is the performance of a periodical compliance check over risk profiles or a voluntary disclosure where necessary.

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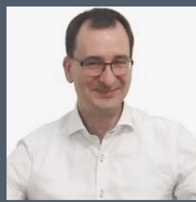

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