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INCOME TAX ON UBER DRIVERS IN INDONESIA

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ABSTRACT

The tax collection system that applies in Indonesia, the self assessment system, which is a "taxpayer" collection system, must calculate, pay and report the amount of tax owed. Collection of income tax on Uber drivers in Indonesia is potential state revenue in the taxation field that can finance the country's survival. This research method uses the normative juridical method. The type of legal writing used in this paper is Reform Oriented Research. The approach used in writing this law is the statute approach and the conceptual approach. The results of the study concluded that Uber drivers in Indonesia can be categorized as income tax subjects and income as Uber drivers in Indonesia can be categorized as tax objects according to Law 36 of 2008 concerning Income Taxes. Specific income tax collection arrangements are required for online transportation drivers.

INTRODUCTION

Uber is an application service provider company rather than a transportation service provider company because basically Uber applies the ridesharing system which is a service to regulate the sharing of a vehicle in a short time. These elements are coordinated through network services, which can immediately handle payments to drivers and manage usage optimally. The collection of income tax on Uber drivers in Indonesia is a potential for state revenue in the field of taxation that can finance the country's survival (Harymawan and Nowland, 2016).

Taxes are the main source of state revenue. Without taxes, most state activities are difficult to implement. The tax collection system that applies in Indonesia is a self assessment system, which is a tax collection system in which "taxpayers" must calculate, consider, pay, and report the amount of tax owed. The tax officers (fiscal authorities) are only tasked with conducting counseling and supervision to determine the compliance of taxpayers (Huh and Park, 2013).

With the implementation of the self assessment system, the government gives taxpayers the opportunity to calculate and report the amount of tax owed without the intervention of others. However, in Indonesia, this also uses the Withholding System, a tax collection system that authorizes third parties (not the tax authorities and not the taxpayer concerned) to determine the amount owed by the Taxpayer. In this case, PPh 21 follows this system (Damayanti, 2012).

Based on the background explanation above, the purpose of this study is to find out the mechanism of applying the rules and collection of income tax in the community, especially for Uber drivers in Indonesia. The practical implications of this research are expected to benefit the community of taxpayers, especially in Indonesian Uber driver and practitioners in the field of taxation in implementing the tax obligations relating to the Income Tax against Uber driver in Indonesia.

RESEARCH METHOD

This research method uses the normative juridical method. The type of legal writing used in this paper is Reform Oriented Research. The approach used in writing this law is the statute approach and the conceptual approach (Susan and Budirahayu, 2018). This type of writing is legal research (legal research), which is finding the truth of coherence by seeing whether there are norms in the form of orders or prohibitions in accordance with legal principles, and whether one's actions are in accordance with legal norms (not just according to legal rules) or principles law.

Legal Material Sources

Primary Law Sources here are in the form of legislation relating to Tax Procedures and Income Taxes. The legislation used is related to the legalization of tax collection for the income of Grab drivers as online motorcycle taxi drivers. Meanwhile, secondary legal materials used by the author are legal books including undergraduate thesis, thesis, and legal dissertation from legal journals relating to income tax and tax objection efforts. In addition, the author also conducted interviews with the Special Jakarta Regional Office of the Directorate General of Taxation and the Uber driver in Surabaya (Niyobuhungiro, 2019).

LITERATURE REVIEW

Subjects and Objects of Income Tax

Uber drivers as tax subjects must meet subjective and objective requirements in accordance with the provisions of tax legislation based on the self assessment system that applies in Indonesia to become a "Taxpayer" who has the obligation to pay taxes on the income they receive. Based on the explanation of Article 2 section 1 of Law Number 28 Year 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures that what is meant by subjective requirements are requirements in accordance with the provisions regarding tax subjects in the Act 1984 Income Tax and its amendments (Rizki et al., 2018).

Based on the provisions regarding domestic tax subject and foreign tax subject, Uber Driver as an individual is included in the domestic tax subject (Hernoko et al., 2018). An individual in this case resides in Indonesia or is in Indonesia for more than 183 (one hundred eighty-three) days within a period of 1 (one) year or 12 (twelve) months or having the intention to reside in Indonesia in an annual tax. Uber drivers in Indonesia have an obligation as an individual domestic tax subject when receiving income from Indonesia and ending when they no longer receive income (Damayanti, 2012).

Income Tax Object

In taxation, what is meant by the tax object is what is taxed (Fauziati et al., 2016). Each type of tax has its own tax object, so that in tax laws it is always emphasized about the tax object of each type of tax. For this reason, Article 4 section (1) of Law and section (2) of the Income Tax Law have affirmed that the object of income is income. The definition of income according to the Law on Income Tax (PPh) is "any economic addition received or obtained by taxpayers, both originating from Indonesia and from outside Indonesia, which can be used for consumption or to add to the wealth of the taxpayers concerned, by name and in any form" (Hernoko et al., 2018). All costs for earning income can be a reduction of the income received by Uber such as toll fees, parking, vehicle cleaning, insurance, gasoline and even the cost of pulses or cellphones used to run a business as a Uber driver (Fauziati et al., 2016).

Principles and Tax Collection System

In accordance with the Certainty principle contained in The Four Cannons or The Four Maxims discussed in An Inquiry into the Nature and Causes of the Wealth of Nations by Adam Smith that tax collection must be clear and uncompromising (Anggia, 2019). In this principle, legal certainty takes precedence regarding tax subjects, tax objects, tax rates, and provisions regarding payment. This is in accordance with article 23 letter a of the 1945 Constitution that taxes and other levies that are coercive for the purposes of the state must be regulated by law, so that legal certainty arises in the collection of income tax (Ahmed et al., 2015).

Tax collection must also be in accordance with the ability to pay taxpayers by taking into account the income and expenditure of taxpayers in accordance with the principle of Equality (Aditya, 2015). In this case, the income as a Uber driver is uncertain every day and Uber drivers also have to spend expenses such as fuel costs, toll fees, until the revenue sharing with Uber so that in this case the government in collecting income tax Uber drivers must look at the ability to pay driver taxes Uber (Pangestu and Dewi, 2017).

Tax Collection System

Basically, there are three types of applicable tax collection. First is the Official Assessment System. Official Assessment System is a tax collection system where the amount of tax that must be paid or owed by the Taxpayer is calculated

and determined by the tax authorities or tax authorities. So, in this system, taxpayers are passive while the tax authorities are active. According to this system, tax debt arises when there is a tax assessment from the tax authorities. Next, the Self Assessment System is a tax collection system where taxpayers must calculate, consider, pay, and report the amount of taxpayers owed. The tax officers (fiscal authorities) are only tasked with conducting counseling and supervision to determine the obligations and compliance of taxpayers (Fauziati et al., 2016). The third is the Withholding System or a tax collection system in which the amount of tax payable is calculated and deducted by a third party. Third parties in this purpose include employers and government treasurers.

RESULT AND DISCUSSION

Legal Basis for Income Taxes against Uber Drivers in Indonesia

With the increasing attractiveness of the public towards online transportation services, the income of Uber Drivers has increased. Based on an interview with Uber Driver in Surabaya, Mr. Aprianom, on 3 September 2016 that the average weekly income could reach Rp. 3,500,000 (three million five hundred thousand rupiah). However, the income is not necessarily reported as income tax because the income depends on passengers every day (Pangestu and Dewi, 2017).

The income tax regulation for Uber drivers basically has not been specifically regulated regarding income earned from working as an Uber driver because Uber itself does not deduct income tax for Uber drivers and Uber does not provide wages to Uber drivers. However, when viewed from the work they run, that the income earned as a Uber Driver can already be categorized as a tax object because the income comes from the businesses they run as Uber partners in Indonesia (Springborg, 2018).

Thus, based on the business carried out by Uber drivers in Indonesia as Uber partners, it can be categorized as an individual tax subject. In accordance with the sovereignty of the state that the state has the right to collect income tax based on the applicable law, however special regulations on this matter must be specifically regulated so that potential state revenue through income tax for other online transportation service drivers is not lost (Quinton et al., 2018).

Determination of Rates in Income Tax

To achieve the goal of fair tax collection both in principle and in its implementation, the government has created a tariff system so that tax collection can create a social balance that is very important for social welfare. Determination of tax rates by the government is one way to achieve the goal of tax collection, namely justice.

Basically, there are three basic types of taxation in calculating Income Taxes, namely 1) Gross Income, 2) Net Income, and 3) Taxable Income (PKP). The three basic types of taxation are different from each other. The difference can be simply seen from the tax calculation structure and also its position in the financial statements in the form of profit and loss, where the position of each other is in different places. In calculating income tax in Article 21, which includes gross income is all income received from several types of naming (for

example: salary, benefits, intensive, etc.) in a certain period of time. Net income is gross income and then reduced by costs that are allowed as a reduction in the income tax provisions (Djanggih, 2018).

Table 1. Tax rates on taxable income (PKP) based on article 17 section 1 of the Income Tax Law

Taxable Income Layer	Tax Rates
Up to IDR 50,000,000	5% (five percent)
Above Rp. 50,000,000 to IDR 250,000,000	15% (fifteen percent)
Above Rp. 250,000,000 to IDR 500,000,000	25% (twenty five percent)
Above IDR 500,000,000	30% (thirty percent)

In calculating taxes, income must also be seen from Non-Taxable Income regulated in the Minister of Finance Regulation Number 101/PMK.010/2016 concerning Adjustments to the Amount of Non-Taxable Income given at least IDR 54,000,000.00 (fifty four million rupiah) for an individual taxpayer, IDR 4,500,000.00 (four million five hundred thousand rupiah) additional to a married taxpayer, IDR 54,000,000.00 (fifty four million rupiah) additional for a wife whose income is combined with the husband's income as referred to in Article 8 section 1 of the Income Tax Law, and an additional IDR 4,500,000.00 (four million five hundred thousand rupiah) for each family member and family member in a straight line and adopted child, who are fully dependent, at most 3 (three) people for each family (Weill and Woerner, 2018).

A Tax Subject whose income exceeds Non-Taxable Income (PTKP) which is IDR 54,000,000.00 (fifty-four million rupiah) per year may be subject to income tax and includes a Tax Subject. However, if it is below PTKP per year, it is not permitted to be subject to income tax. A Tax Subject can become a Taxpayer if the person already has a Taxpayer Identification Number (NPWP). The understanding of NPWP itself in the explanation of Law 28 of 2007 that the NPWP itself is a personal identification or the identity of the Taxpayer in carrying out taxation rights and obligations and as a mean in tax administration. In this case, Uber has given requirements to become a Uber driver, one of which is by having a NPWP. Thus, Uber Drivers actually have an obligation to report their income because Uber itself authorizes Uber Drivers or Uber partners to report and pay their own taxes (Pellini et al., 2018).

To calculate the amount of taxable income from a domestic individual taxpayer, its net income is reduced by the amount of non-taxable income. Aside from being private to taxpayers who are already married, it is also given an additional Non-Taxable Income. For taxpayers whose wives receive or obtain income combined with their income, the taxpayer receives an additional taxable income for a wife of at least IDR 54,000,000.00 (fifty-four million rupiah).

Taxpayers who have family members and blood relatives in a straight line who are fully dependent, for example parents, in-laws, biological children, or adopted children are given additional non-taxable income for a maximum of 3 (three) people. What is meant by "family members who are fully dependent" is a family that has no income and all living costs are borne by the taxpayer. Income Taxpayers are given the authority to calculate their own amount of tax owed in accordance with the provisions of the Law and government guidelines, based on the government's trust in taxpayers and honesty of taxpayers.

Therefore, as a Uber Driver in Indonesia, individuals who earn income from business as Uber partners are required to have a NPWP and register the business. Thus income as a Uber driver may be subject to income tax in accordance with Government Regulation No. 46 of 2013 concerning Income Taxes on Income from Businesses Received or Obtained by Taxpayers who have a Specific Gross Distribution and have the obligation to pay and deposit their Income Tax in accordance with article 25 of the Law Income tax that is by reporting and paying his income tax himself using the Tax Payment (SPT). At the end of the year, the Annual Income Tax Return (SPT) must be submitted by attaching a list of income tax payments according to article 25 of the Income Tax Law (Akhmaddhian and Agustiwi, 2018).

Tax Evasion

The availability of application-based transportation services is widespread throughout the world, one of which is the presence of Uber in Indonesia. Income as a Uber driver can exceed income as a conventional taxi driver. Uber drivers can already be categorized as income tax subjects according to the Income Tax Law and income as an Uber driver can also be categorized as income tax objects that can be subject to income tax. However, the collection of income tax on Uber Drivers has not been specifically regulated in the laws and regulations so that Uber drivers assume there is no obligation to pay income tax.

Uber companies in Indonesia have given each Uber partner/driver the authority to pay their own income tax because basically Uber does not provide wages to them. The lack of socialization by the Tax Apparatus and the absence of specific regulations regarding income tax collection for Uber Drivers have caused obstacles in tax collection so that active and passive resistance can arise. Active tax resistance is resistance that originates from the taxpayer itself. Active tax resistance that occurs with tax avoidance.

Income as a Uber driver is uncertain because it depends on the number of passengers each day, so the Uber driver must also record the income he receives so that their net income can be identified in accordance with article 14 of the Income Tax Law. In this case, it is considered complicated and difficult to do. So, in collecting the Uber driver's income tax, passive resistance can arise. Tax resistance will be very detrimental to the country. Therefore, in order to reduce or even eliminate these obstacles altogether, it is necessary to create a situation where taxpayers are willing and aware of their obligations to pay taxes.

The Need for Government Socialization to Uber

In order to overcome the obstacles that occur in the collection of income tax on Uber Drivers in Indonesia, the government can make several efforts so that the country does not lose the potential tax revenue that should be collected from the income of Uber drivers in Indonesia. One of the efforts the government can make to overcome obstacles in collecting income tax on Uber drivers in Indonesia is socialization. Socialization is an important factor to raise awareness of taxpayers in paying taxes. Moreover, this socialization can be received effectively against taxpayers so that taxpayers can pay taxes according to their obligations.

In the Director General of Tax Circular Number SE-98/PJ/2011 concerning Guidelines for Preparation of Work Plans and Vertical Unit Taxation Activity Reports in the Directorate General of Taxes (DJP), stated that efforts to increase public understanding and awareness of tax rights and obligations must continue to be carried out for several reasons including continuing extensification programs The DJP. It is expected to increase the number of new taxpayers who need socialization/counseling, the level of compliance of taxpayers has a large space to be increased, efforts to increase the amount of tax revenue and increase the amount of tax ratio; and dynamic tax regulations and policies.

In order to achieve its objectives, the socialization activities or tax counseling are divided into three focuses, namely the socialization activities for prospective taxpayers, the socialization activities for new taxpayers, and the socialization activities for registered taxpayers. The socialization activities for prospective taxpayers aim to build awareness about the importance of taxpayers and attract new taxpayers. The socialization activity for new taxpayers is aimed at increasing understanding and compliance to fulfill tax obligations, especially for those who have not submitted their tax returns and have not made tax payments for the first time. While the socialization activities for registered taxpayers to maintain the commitment of taxpayers to continue to comply. Tax socialization activities can be done in two ways, namely tax socialization by interacting directly with taxpayers or prospective taxpayers. Forms of socialization that have been carried out include Early Tax Education, Tax Goes To School/Tax Goes To Campus, tax classes/tax clinics, workshops, etc. The second is taxation socialization activities to the public with little or no interaction with participants, for example through radio or television and with print media.

The existence of Uber application services is indeed new in Indonesia. On the other hand, there is great potential for income as a Uber driver. However, the government has not specifically regulated the taxation of online application services, even though there are currently many online application-based transportation services circulating such as Go-jek, Grabtaxi, Grabbike, Transjek, etc. Therefore, counseling is needed for drivers of Uber and other online-based transportation service drivers to increase awareness that paying taxes will guarantee the survival of the country (Zaki, 2017).

Good Coordination between Uber Companies and Tax Officials

The Uber company does not authorize Uber drivers to pay their own income tax because basically the relationship between Uber and Uber Drivers is only limited to partners not as Uber employees. Therefore, in this case the obligation to report income tax is the Uber Driver using the self-assessment system.

The self-assessment system is a tax collection system where taxpayers must calculate, consider, pay, and report the amount of tax owed. The tax officer is only tasked with conducting counseling and supervision to determine the compliance of taxpayers. In this case, good coordination between the Uber Company and the Tax Apparatus is needed for the smooth payment of taxes in accordance with tax regulations. The Uber Company must work together with the Tax Apparatus to give directions to Uber Drivers to pay their income tax because basically the Uber Company also knows the amount of Uber Driver income every day through the Uber application. Coordination between Uber Companies and Tax Officers can also be done with transparency regarding Uber company and driver data if needed by the Tax Officers.

Supervision is carried out by the Tax Officers (Fiscus) for the smooth collection of Uber Driver income tax in Indonesia

To realize the taxpayer self-assessment system, the taxpayer's own compliance and understanding of the law is demanded. This is because there are still many taxpayers who do not have the awareness of the importance of fulfilling tax obligations for the state and for themselves as good citizens (Damayanti, 2012).

Under these conditions, the existence of a self assessment system allows taxpayers to commit tax fraud such as tax evasion which is based on several reasons such as lack of socialization to the reluctance of taxpayers to pay taxes. In this case, the collection of income tax on Uber Drivers must be balanced with the monitoring instruments of the tax authorities, for that the tax authorities are given the authority to conduct tax audits. If the results of the tax audit indicate a difference, the tax authorities are authorized to issue a Tax Assessment Letter that functions as a billing statement. In accordance with article 29 section 1 of Law 28 of 2007 concerning General Provisions and Tax Procedures that the "Director General of Taxes is authorized to conduct audits to test the compliance of taxpayers and for other purposes in the context of implementing the provisions of the legislation.

In accordance with article 23 letter a of the 1945 Constitution that taxes and other levies that are coercive for the purposes of the state must be regulated by law. Therefore, all tax collection must be regulated by law so that legal certainty arises.

Law Enforcement Efforts in the Field of Taxation by the Government in Indonesia

According to Satjipto Rahardjo, law enforcement is a process to realize legal desires. In this case, none other than the thoughts of the legislature formulated in these legal regulations (Barizah, 2019). In other words, law enforcement is an attempt to turn these ideas into reality. The process of realizing these ideas is the essence of law enforcement. In addition, it can be said that law

enforcement is not an entirely separate effort from the legal process itself. Specifically in the tax sector, law enforcement must also be related to the basic ideals of establishing a series of provisions in the tax sector and the formulation of these legal ideals in broad and numerous legal norms. Socialization, counseling and tax education for the community should be inseparable from law enforcement in the broadest sense in the tax sector.

According to an opinion written by J.B.J.M. ten Berge elaborates law enforcement which includes supervision as part of the scope of law enforcement that is preventive, because supervision is a preventive step to enforce compliance while the application of sanctions is a repressive step to impose compliance. Supervision carried out serves to prevent so that when the applicable legal provisions do not deviate from the provisions that have been enacted (Hernoko et al., 2018).

In accordance with the characteristics of the rule of law, that the authority used to conduct supervision must be based on the principle of legality, therefore the authority in conducting supervision must be stated in the legislation. Meanwhile, administrative sanctions are the application of sanctions by the government for violations of legal norms. Administrative sanctions themselves are part of repressive law enforcement, because the application of administrative sanctions is preceded by violations of administrative legal norms. The target of administrative sanctions is activities against violations of the norms of administrative law rather than the perpetrators, so the purpose of administrative sanctions is to stop the violation or restore the original situation.

Enforcement of tax law means a step how to uphold the legal norms in the Law of the Republic of Indonesia Number 5 of 2008 concerning the Fourth Amendment to Law 6 of 1983 concerning General Provisions and Tax Procedures. The KUP Law states law enforcement in two ways, namely administrative and criminal.

There are 2 (two) types of Tax Law Enforcement, namely administrative law enforcement is part of the "bestuuren" or government authority. In administrative law enforcement, administrative law enforcement procedures are carried out directly without going through a judicial process. As well as criminal law enforcement in the tax sector has a specific purpose that is so that the legal provisions in the tax sector can be carried out accordingly so as to realize justice, certainty, and balance between the parties involved in it. Criminal law enforcement is carried out through the judicial process. Within the framework of the criminal law enforcement process, it is possible to have external cumulation on the application of sanctions. The application of external cumulative sanctions is the application of criminal sanctions and administrative sanctions at the same time (Prihandono, 2014).

Law Enforcement Efforts Made by the Government in Uber Driver Income Tax Collection in Indonesia

The current Uber driver's income tax collection in Indonesia cannot yet be implemented because basically there are no specific regulations governing the

collection of income tax even though in practice there is now a lot of online application-based transportation in Indonesia.

Based on article 23 letter A of the 1945 Constitution of the Republic of Indonesia that taxes and other levies that are coercive for the purposes of the state must be regulated by law. Thus, if the government wants to collect income tax on Uber drivers in Indonesia, it must be based on clear legal rules so that the collection of income tax is in accordance with applicable laws. Regulations regarding the subject and object of income tax have been explained in the Income Tax Law. In general, the understanding of the subject of taxation is anyone who is subject to tax whereas in article 4 section (1) of the Law and section (2) of the Income Tax Law has affirmed the object of income is the income. The definition of income according to the Law on Income Tax is "any economic addition received or obtained by a Taxpayer, both originating from Indonesia or from outside Indonesia, which can be used for consumption or to add to the wealth of the Taxpayer concerned, by name and in any form". Uber drivers are subject to income tax and income as an Uber driver can already be categorized as an income tax object, so that the income can be taxed on that income. However, specific regulations regarding this matter have not yet been regulated by the government through the Directorate General of Taxes.

Law enforcement efforts undertaken by the government through the Directorate General of Taxes against Uber driver's income tax collection in practice have yet to be implemented. Therefore, there is a need for supervision and special rules governing online transportation services that are currently rife in Indonesia so that law enforcement can be applied to the income tax of drivers of online transportation services in Indonesia. It is expected that the state does not lose the potential of state revenue derived from taxes (Huh and Park, 2013).

According to the Circular of the Director General of Taxes Number SE-06/PJ.9/2001 concerning the implementation of taxpayer extensification and tax intensification, which is meant by tax extensification, is an activity related to increasing the number of registered taxpayers and expanding tax objects in the administration of the Directorate General of Taxes. In other words, tax extensification is an attempt to increase the number of registered taxpayers. Tax extensification focuses on increasing awareness of taxpayers in fulfilling their tax obligations and focusing on increasing the number of registered taxpayers and expanding tax objects.

One of the requirements to become a Uber driver in Indonesia is to have a Taxpayer Identification Number (NPWP) so that in this case the Uber driver in Indonesia as a Taxpayer has fulfilled the subjective and objective requirements in accordance with Article 2 section 1 of Law 28 of 2007 concerning Provisions General and Tax Procedures that every taxpayer who has fulfilled the subjective and objective requirements in accordance with the provisions of tax legislation must register at the office of the Directorate General of Taxes whose working area covers the residence or place of residence of the Taxpayer and is given a NPWP. In this case, the government through the Directorate General of Taxes can carry out an extensification policy by cooperating with Uber companies in order to require Uber drivers to have a NPWP and carry out their tax payment

obligations (Fauziati et al., 2016).

This extensification activity is expected to succeed as planned, according to Drs Boediono, M.Si, there are three main functions of the taxation apparatus to ensure the success of the taxation system, namely counseling, service, and supervision. These three things must not be separated and must go together to create a good taxation system that aims to increase state revenue from the tax sector. In addition, awareness of taxpayers is needed because by increasing awareness and the number of taxpayers it will increase the amount of state income (Nienhaus, 2010)

Tax Intensification

Tax intensification according to Circular of the Director General of Taxes Number SE-06/PJ.9/2001 concerning the implementation of taxpayer extensification and tax intensification is the activity of optimizing tax revenue collection for tax objects and subjects that have been registered or recorded in DGT administration and from the results of the implementation of extensification Taxpayer.

Tax intensification is an effort made by the government to intensify tax imposition, both related to the tax subject and the object of the tax. In the case of tax subjects, if according to the applicable provisions that one party must be taxed, then the party must be endeavored so that the party may be taxed. While in the case of tax objects, if according to the provisions in force a transaction of goods, or wealth fulfills the requirements to become a tax object, it must be endeavored that the transaction of goods or wealth (Rumata and Sastrosubroto, 2018).

CONCLUSION

Uber drivers in Indonesia can be categorized as income tax subjects and income as Uber drivers in Indonesia can be categorized as tax objects according to Law 36 of 2008 concerning Income Taxes. In this case, the government through the Directorate General of Taxes can make law enforcement efforts in the field of taxation and can make efforts to optimize tax revenue. The absence of specific regulations regarding this matter causes many online transportation drivers who have not paid taxes. Therefore, there is a need for special income tax collection arrangements for online transportation drivers.

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