

**COMPLETING THE LAW ON ADJUSTING THE SHARING ECONOMY MODEL IN
THE ROAD TRANSPORT SECTOR IN VIETNAM IN THE CONTEXT OF THE
FOURTH INDUSTRIAL REVOLUTION**

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ABSTRACT

Sharing economy appeared when people knew how to exchange and do business, but this type of economy boomed when the fourth industrial revolution developed strongly around the world. In Vietnam, the sharing economy has developed strongly since 2014, in which the road transport sector appeared earlier with famous representatives such as Uber, Grab... In that context, the Government of Vietnam is always trying to adapt to this new business model by improving the legal system. However, so far, many legal issues have not been satisfactorily resolved, requiring the legal system to continue to be perfected to solve the problem and develop an economic model that brings many benefits to society while solving many new social problems that this economic model poses. This article goes into researching the current situation of the law governing the sharing economy model in Vietnam by analyzing, synthesizing, comparative research, and commenting on the judgment. The research objective is to identify the problems, find the causes, and propose solutions to improve the legal system to adjust the sharing economic model in the field of road transport in Vietnam to adapt to the current situation development of the fourth industrial revolution.

Keywords: Law. Sharing economy. Road transport. Vietnam.



CONCLUSÃO DA LEI DE AJUSTE DO MODELO DE ECONOMIA DE PARTILHA NO SETOR DE TRANSPORTE RODOVIÁRIO NO VIETNÃ NO CONTEXTO DA QUARTA REVOLUÇÃO INDUSTRIAL

RESUMO

A economia partilhada surgiu quando as pessoas sabiam como trocar e fazer negócios, mas este tipo de economia cresceu quando a quarta revolução industrial se desenvolveu fortemente em todo o mundo. No Vietname, a economia partilhada desenvolveu-se fortemente desde 2014, em que o sector do transporte rodoviário apareceu anteriormente com representantes famosos como Uber, Grab... Nesse contexto, o Governo do Vietname está sempre a tentar adaptar-se a este novo modelo de negócio através de melhorar o sistema jurídico. No entanto, até ao momento, muitas questões jurídicas não foram resolvidas de forma satisfatória, exigindo que o sistema jurídico continue a ser aperfeiçoado para resolver o problema e desenvolver um modelo económico que traga muitos benefícios para a sociedade, ao mesmo tempo que resolve muitos novos problemas sociais que este modelo económico coloca. Este artigo investiga a situação atual da lei que rege o modelo de economia compartilhada no Vietnã, analisando, sintetizando pesquisas comparativas e comentando a sentença. O objetivo da pesquisa é identificar os problemas, encontrar as causas e propor soluções para melhorar o sistema jurídico para ajustar o modelo económico de partilha no domínio do transporte rodoviário no Vietname para se adaptar à situação atual de desenvolvimento da quarta revolução industrial.

Palavras-chave: Direito. Economia compartilhada. Transporte rodoviário. Vietnã.

1. INTRODUCTION

Sharing economy appears when people know how to exchange and do business. However, the term “sharing economy” officially first appeared in the United States (Chu Thi Hoa. (2022). pp.7). The sharing economy, which has flourished for more than a decade, is a global phenomenon as the fourth industrial revolution erupts. In Vietnam, the sharing economy was introduced in 2014 and is growing strongly. In particular, the field of road transport business can be said to be the most exciting. Therefore, many legal problems arise for this economic model, such as: distinguishing between a connection service business and a road transport business, and the relationship between connection service business enterprises and service providers. Is the service provided as an employment relationship or a business partnership?; fair competition between connection service providers and traditional road transport businesses; issues of protecting the interests of service users and tax administration issues. To quickly adapt and take advantage of the achievements



brought about by the fourth industrial revolution, governments of other countries, including the Government of Vietnam, must quickly improve the legal system to promote the economic model. This economic model develops more fully and avoids being lagged behind developed countries.

2. OVERVIEW OF THE SHARING ECONOMIC MODEL IN ROAD TRANSPORTATION IN VIETNAM

2.1. The concept of sharing economy

The term sharing economy first appeared in the United States with many different names, such as: Collaborative economy (Rachel Potsman and Roo Rogers. (2011)), Gig economy, Peer economy, Renting economy, On-demand economy (Arun Sundararajan. (2018). pp.54), Platform economy.

Sharing is a category that accompanies human development, which is essential for strengthening interpersonal relationships (Russell Belk. (2014). pp.1595-1600). In a Fortune study on the use of the term in the New York Times, Wall Street Journal, and Washington Post, sharing economy was used five times more than other terms (Jeff John Roberts. (2015)). In Vietnam, the term sharing economy is officially used in the report on the impact of the main types of sharing economy on the economy in 2020 by the Ministry of Planning and Investment.

The sharing economy is a part of the digital economy. A digital economy is an organizational model with an operating method based on the application of digital and communication technologies such as the internet, mobile networks, and sensor networks, in which there are three intertwined processing processes: materials, energy processing, information processing (Le Quoc Ly. (2022). pp.11). Therefore, the sharing economy also includes three basic components: (1) digital business infrastructure; (2) digital business; (3) e-commerce.

According to Chu Thi Hoa: “The sharing economy model is a model of organizing and conducting business activities combining ownership and sharing based on technology platforms and applications, where assets and services are shared for many users in the market through the use of digital platforms” (Chu Thi Hoa. (2022). pp.19).

2.2. Overview of road transport and road transport business



According to Clauses 1 and 2, Article 64 of the Law on Road Traffic 2008, road transport business includes passenger transport business and freight transport business. A road transport business is a conditional business line as prescribed by law. In there:

Passenger transport business includes: (1) Passenger transport business along fixed routes with defined departure and arrival stations with certain schedules and itineraries; (2) Business of passenger transport by bus on fixed routes with stops to pick up and drop off passengers and vehicles running according to the operating chart with a certain distance and scope of operation; (3) Passenger transport business by taxi with schedules and itineraries at the request of passengers; charge according to the meter; (4) Passenger transport business under contract not along the fixed route is performed under the contract of transport; (5) Tourist transport business according to routes, programs and tourist destinations (Article 66 Law on Road Traffic 2008).

Cargo transportation business includes: (1) Normal cargo transportation business; (2) Transporting goods by truck taxi; (3) Transporting super-long and super-heavy goods; (4) Dangerous goods transport business (Article 66 Law on Road Traffic 2008).

2.3. Overview of the sharing economy model in the field of road transport

The sharing economy model in the road transport business, also known as the technology vehicle business model or another name, transport services using electronic contracts: is a way of requesting certain types of services road transport services through digital platforms on smart mobile devices.

Stemming from outstanding features such as the support of digital technology, the technology vehicle business model has connected a large number of service providers and passengers while saving on facility investment costs materials, vehicles, and people. Thereby bringing many benefits to business and society, such as: competitive prices, promoting competition to optimize benefits for consumers, taking advantage of society's excess resources, and creating more jobs for workers.

In 2006, the world appeared and rapidly developed a type of transportation service business using electronic contracts, such as: Uber in the US, Grab in Malaysia, Go-Jek in Indonesia, Didi in China, and Yandex in Russia. Which, some



other countries such as France (Huong, D. (2014)), Germany, Japan (Dang, N. (2018)), and some US states (Minh, N. (2018)) are involved. The drawback is that it is forbidden to provide online transportation services because this type of service is considered a business in the field of transportation, not simply a connection service business.

In contrast, some countries implement an open-door policy, accepting transport models using electronic contracts such as countries in Asia-Pacific, Africa, South America, and some US states. These countries have taken a series of measures to manage this new type of business, such as: (1) Amending the legal system and sub-law regulations to create the necessary legal corridor; (2) Proposing solutions to collect fees and taxes, ensuring no loss of revenue and fairer competition between modes of transport; (3) Introduce mandatory regulations for drivers and vehicles participating in the type of transport using electronic contracts to ensure safety and convenience for management and handling; (4) Loosening regulations to ensure fair competition for different modes of transport.

Thus, the sharing economy model in the field of road transport appeared and developed in many countries around the world, but the perception and acceptance of this new business model differed from country to country. We can divide it into two schools: *First*, consider the sharing economy in the field of road transport as a completely new business model, applying technology to provide connection services between people in need of transportation overland with people with means and leisure time. *Second*, consider the sharing economy in the transport sector as the road transport business applying electronic transport contracts.

The perception of the sharing economy in the trucking sector greatly influences the planning and promulgation of policies and laws governing this business model. The right perception and the right policymaking will promote the development of this model, take advantage of the great economic benefits from the achievements created by the fourth industrial revolution and limit its negative side. On the contrary, a wrong perception of nature leads to inappropriate legal policies, which inevitably leads to the end of this economic model. Therefore, all legal issues must be resolved from the ground up.



2.4. Advantages of the sharing economy model in the field of road transport compared to the traditional trucking business

From the above sections, we can summarize the basic differences between the connection service business in the field of road transport and the traditional road transport business as follows:

Firstly, the connection service business does not own the means of transport. Traditional transport service enterprises must own means of transport. Therefore, connection service enterprises have a more competitive advantage in significantly reduced costs, including: (1) the cost of purchasing vehicles; (2) asset depreciation expense; (3) Expenses for repair, registration, and assurance that the means of transport are eligible to participate in the transport of passengers and goods; (4) Warehousing costs; (5) Preservation costs and risk of loss and damage.

Second, connection service businesses do not sign labor contracts with drivers. Meanwhile, road transport businesses must sign labor contracts with drivers. Therefore, connection service enterprises do not have to spend the following costs: (1) recruitment costs; (2) training costs; (3) wages and benefits according to labor laws for drivers; (4) social insurance, health insurance, and unemployment insurance for drivers.

Third, enterprises providing connection services do not directly operate vehicles or drive vehicles, nor do they decide on freight rates. The relationship between the connection service business and the driver is a business partnership. The driver owns or has the legal right to use the means of transport when participating as a business partner, the legal status of the driver is a business individual. This business person cooperates with a connection service business, the peer-to-peer relationship is not a labor relationship but a civil relationship, a commercial relationship, so there is no management between the parties of one party to the other. Connection service enterprises do not have the right to directly operate vehicles or drivers. The payment for the transport contract is the money paid by the customer to the driver, so according to the civil relationship, this money is agreed upon by the parties. The connection service business side is not allowed to decide on the freight rate but is only entitled to receive the connection service fee.

Fourth, as a consequence of the third feature, the connection service business only collects connection service fees, collects taxes, manages electronic contracts



between drivers and customers according to the law freight rates, and does not directly collect freight.

If in the course of business, an enterprise providing direct connection services operates vehicles, drives, and determines freight rates, then such enterprise shall be classified as a road transport business, a line of business conditions, and must meet the same business conditions, management and tax regulations as a traditional trucking business. And even if it is classified as a road transport business, it is undeniable that two great advantages from characteristics 1 and 2 are not owning a means of transport and not signing a labor contract with a driver. This is a great competitive advantage for connection service businesses and traditional trucking businesses.

Thus, the sharing economy model in the field of road transport by electronic contracts allows us to make the most of redundant resources (cars and idle drivers) in society to create value; help make use of idle cars, motorbikes (assets) and drivers (labor) to create services. The parties involved in the sharing economy model include: providers of digital platforms that connect providers of assets, services, and customers.

In Vietnam today, sharing business in the field of road transport has the following types of business: (1) business of passenger transport by car; (2) business of transporting passengers by motorbike; (3) business of transporting goods by car; (4) business of transporting goods by motorbike. Currently, in Vietnam, there are no general regulations for business connection services in the field of road transport. In which, transport business by car is a conditional business line; motor transport business is not a conditional business line, and there are no separate regulations.

3. LEGAL SITUATION ADJUSTING THE SHARING ECONOMIC MODEL IN ROAD TRANSPORTATION IN VIETNAM

3.1. Legal status of the sharing economy model in Vietnam from 2014 to present

The specific form of sharing economy in the trucking business first appeared in Vietnam in 2014. The company started as Uber Vietnam Limited, established and operating on August 30, 2014, providing connection services in the field of passenger transport by cars with less than 9 seats through electronic contracts. At this time, there is no specific legal document regulating the sharing economy model in the



transport sector. The legal basis for the sharing economy model in the transport sector, a new business model is “freedom of business” according to Article 33 of the 2013 Constitution: “Everyone has the right to freely conduct business in the following sectors: occupations that are not prohibited by law” and Clause 1, Article 7 of the 2005 Enterprise Law: “Enterprises of all economic sectors have the right to conduct business in lines and trades not prohibited by law”. Another important legal corridor is the 2005 Law on Electronic Transactions and the Government's Decree No. 53/2013/ND-CP on e-commerce, creating a legal basis for regulating transportation activities by electronic contracts. However, businesses providing connection services have entered the market in large numbers, such as: GrabTaxi (now Grab), LiveTaxi, Return Taxi, Uber, EasyTaxi, VATO, Be, FastGo, Aber and Go-Viet, etc.

On January 7, 2016, the Ministry of Transport issued a pilot project “Deploying the application of science and technology to support the management and connection of passenger transport activities under contract” attached to Decision No. 24/QĐ-BGTVT dated January 7, 2016, of the Ministry of Transport (Project 24). The scheme allows contract vehicles with less than 9 seats that meet the standards specified in Decree No. 86/2014/NĐ-CP and Circular No. 63/2014/TT-BGTVT to apply electronic contracts. In addition to the usual paper-written contract, the pilot period is 2 years from January 2016 to January 2018. The pilot took place in 5 provinces/cities including: Hanoi, Ho Chi Minh City, Da Nang, Khanh Hoa, and Quang Ninh.

According to the Department of Transport of Ho Chi Minh City, after 2 years of pilot implementation under Project 24, the number of cars with 9 seats or less participating in the transportation business under contracts has increased sharply. According to statistics at the end of 2017, there are 866 transport units with 36,809 vehicles participating in the pilot (Ministry of Planning and Investment (2020). pp.5). Particularly in Ho Chi Minh City, there are 506 transport units, and 03 software providers, with 21,601 vehicles participating in the pilot; Hanoi city has 07 software providers, with 354 transport units and 15,046 vehicles participating in the pilot; Quang Ninh province has 04 transport units, 02 software suppliers, with 62 vehicles; Khanh Hoa province has 02 software providers, with 100 vehicles participating in the pilot (K, C. (2017)).



On February 23, 2018, Deputy Prime Minister Trinh Dinh Dung gave instructions in Document No. 1755/VPCP-CN on “Agreeing to extend the pilot period to deploy the application of supporting science and technology. Assist in the management and connection of customer transport activities under the contract under the direction of the Prime Minister in Document No. 1805/TTg-KTN dated October 19, 2015, until the Decree stipulates business and regulatory requirements. business case by car, replacing Decree No. 86/2014/NĐ-CP issued and effective” (Section 1, Official Letter No. 1755/VPCP-CN).

Regarding taxes, according to Circular 92/2015/TT-BTC of the Ministry of Finance, drivers under electronic contracts will fulfill tax obligations to the state, in which VAT is 3% and personal income tax is 1.5% based on revenue (Point b, Clause 2, Article 2 of Circular 95/2015/TT-BTC). Drivers with incomes of VND 100 million or more will pay personal income tax.

With many shortcomings in legal regulations and the identification of new business models in the field of road transport not clear, on May 3, 2017, Anh Duong Joint Stock Company (Vinasun), a business enterprise Traditional trucking services sued Grab Vietnam Co., Ltd (a sharing economy business). In the lawsuit, Vinasun asserts that Grab is a transportation business because it has fully implemented all stages of the passenger transport business process but does not have to meet the business conditions under Decree No. 86/2014/NĐ-CP of the Government dated September 10, 2014, on business and conditions for transport business by car. In addition, Grab also enjoys tax incentives, no costs to buy means of transport, no costs for social insurance, unemployment insurance, health insurance, and other policies on labor for drivers, thereby causing damage to traditional trucking businesses, including Vinasun. Therefore, Vinasun sued Grab for compensation for non-contractual damages (Ho Chi Minh City People's Court. (2018)). From this lawsuit, there is a problem in identifying the connection service business, applying science and technology to the transportation field, and distinguishing this business model from the traditional road transport service business.

On January 17, 2020, the Government issued Decree No. 10/2020/NĐ-CP stipulating business and conditions for transport business by car (replacing Decree No. 86/2014/NĐ-CP), the Decree took effect from April 1, 2020, there have been significant changes in the field of online transportation, the Decree has added new



regulations to apply information technology strongly focused on road transport, especially helping to distinguish transport businesses from those providing platform services; thereby helping businesses clearly define business conditions and state management agencies are also more favorable in performing these dynamic management tasks.

On October 19, 2020, the Government issued Decree 126/2020/NĐ-CP detailing some articles of the Law on Tax Administration, effective from December 5, 2020, according to which transport enterprises technology must fulfill the obligation to declare and pay value-added tax. Enterprises will have to declare a 10% value-added tax on total revenue, the company will be able to deduct input. On the driver side, according to the new regulations, the personal income tax rate of 1.5% will only be imposed when the income is over 100 million VND/year. On June 1, 2021, the Ministry of Finance issued Circular No. 40/2021/TT-BTC guiding the value-added tax and corporate income tax applicable to business households, effective August 1, 2021. Accordingly, drivers of technology vehicles must pay a value-added tax of 3% and a personal income tax of 1.5%. Personal income tax is only charged to people with incomes of 100 million/year.

Thus, according to the current Vietnamese law on the issue of adjusting the sharing economic model in the field of road transport, the main features are as follows:

Firstly, there is no separate legal regulation on the business of providing connection services for sharing that field.

Secondly, the relationship between the connection service provider and the driver under the electronic transport contract is a business cooperation relationship, not an employment relationship. The driver is not entitled to the employee's policies, benefits, social insurance, and health insurance according to the labor law but is a business cooperation partner with a connection service business in the field of connection services road transport sector.

Thirdly, a connection service business enterprise if it performs at least one of the main stages of transportation activities (directly operating vehicles, driving, or deciding on freight rates) to transport passengers, and goods on the road for profit purposes is considered transport business by automobile. Tax policies and fair business conditions are similar to those of traditional road transport businesses.



Fourth, there is no separate regulation for road transport business by motorbike, although in fact, the number of motorbike drivers participating in the sharing economy model is very large, up to millions of people.

3.2. Legal issues on the sharing economy model in the field of road transport in Vietnam

3.2.1. Competition between sharing service businesses and traditional trucking businesses

In 2018, the case of compensation for damages between Anh Duong Joint Stock Company (Vinasun) and Grab Vietnam Co., Ltd. sketches a panorama of many legal issues that need to be resolved when operating the economic model shared in Vietnam, in which the outstanding issue is the competition between traditional road transport enterprises and connection service enterprises in the field of road transport.

Analysis of the first instance commercial business judgment No. 1910/2018/KDTM-ST dated December 28, 2018, and Appellate commercial business judgment No. 05/2020/KDTM-PT dated March 10, 2020 argument of the two plaintiffs - Anh Duong Joint Stock Company (Vinasun) and the defendant - Grab Vietnam Co., Ltd (Grab). In which, the plaintiff asks the defendant to compensate for damages outside the contract the plaintiff. Regarding competition issues as follows: *Firstly*, the issue of distinguishing technology businesses in the field of transportation and transportation service businesses, identifying whether Grab is in the transportation business or not determines whether there is a competitive relationship with Vinasun or not. *Second*, the issue of inequality in business conditions, taxes, and costs for employees.

3.2.2. Labor, employment, and social security issues

At the first-instance judgment in 2018 and the appeal in 2020, the judgment of the courts at all levels adjudicating the case of Vinasun v. Grab, the Court of First Instance and the Court of Appeal, proposed that the Vietnam Social Insurance Agency and Competent state agencies: Reviewing the responsibility of Grab Co., Ltd. in the performance of obligations on social insurance, unemployment insurance, health insurance for employees engaged in employment working for Grab following



regulations (Senior People's Court. (2020)). Thus, the court's view is that the relationship between Grab and the driver is an employment relationship.

However, according to current Vietnamese law, the relationship between a connection service provider and a driver of a technology vehicle is a business cooperation partnership. The driver is considered a business individual and pays personal income tax in the case of income from 100 million/year. Drivers are not employees, so they are not entitled to labor insurance and welfare policies.

Not having to sign labor contracts with technology hybrids is a business advantage that characterizes the sharing economy model. The essence of the sharing economy is to connect people with needs and people with means and spare time. In essence, the relationship between connection service providers and drivers is a peer-to-peer partnership, not an employment relationship. However, if the enterprise provides the operator connection service, the driver is beyond the limit of a peer-to-peer partnership and becomes a relationship with the nature of an employment relationship.

Initially sharing when having a vehicle and idle time, later, driving became a major income-generating career activity. Therefore, a civil sharing relationship becomes a commercial business relationship for profit. Professional driving requires the driver to use continuous labor to create value and therefore also needs to restore labor and also need access to social insurance policies and policies other welfare.

In fact, according to statistics from the Vietnam General Confederation of Labor, Grab's technology motorbike driver has an average income of after deducting connection fees and gasoline is 318,000 VND/day, 7 million VND/month. In addition, drivers are also entitled to additional bonuses, allowances, and support programs from Grab but are quite low and infrequent. The work level is very stressful, on average, each driver works 9.2 hours/day, with no days off or holidays (Doan, C. (2022)). Thus, motorbike taxi drivers are suffering a lot of disadvantages, is a profession that faces many risks and dangers, but almost no one can participate in social insurance and health insurance.

3.2.3. Tax administration issues

The issue of tax administration for sharing economy businesses was first raised in the judgment of Vinasun v. Grab. In court, Vinasun quoted data from the



General Department of Taxation, in the 2014-2016 business period, the tax amount that Grabs paid to the State was 9.5 billion VND, equal to 1/130 of the tax Vinasun paid in the same period of 1,200 billion VND copper. Therefore, in Official Letter No. 15467/BTC-TCT dated November 15, 2017, the Ministry of Finance said: Grab has signs of high tax risk, forcing it to be subject to key tax control.

In 2020, Decree 126/2020/NĐ-CP of the Government dated October 19, 2020, detailing some articles of the Law on Tax Administration, Circular 80/2021/TT-BTC dated September 29, 2021, Guiding implementing some articles of the Law on Tax Administration and Decree 126/2020/NĐ-CP, from here the two traditional and sharing economic models in the transport sector pay the same tax at the same rate of value added tax 10% of total revenue. This tax rate is reduced to 8% according to Decree 15/2022/NĐ-CP dated January 28, 2022, detailing tax exemption and reduction policies. The regulation does not distinguish these two business models to ensure fair competition. The question is whether, with two different models, the same taxation is considered fair or not. Because the legal system has not recognized this type of business and tax authorities are confused when determining the nature of the transaction to impose taxes, businesses that have operated under the sharing economy model in Vietnam still face difficulties in tax declaration (Hoa, A. (2019)).

Another issue about tax administration is the case for overseas-based businesses doing business in the sharing economy model in Vietnam, having revenue in Vietnam, only paying corporate income tax on a revenue-based basis due to the failure to manage foreign inputs and not having a permanent office in Vietnam. It is necessary to have a monitoring mechanism to avoid inequality in competition with domestic enterprises and avoid loss of tax revenue for the state.

3.2.4. Lack of legal basis for the sharing economy model in the field of road transport by motorbike

Currently, motorbike taxi drivers are operating according to ride-hailing applications in Vietnam for millions of people. This is a spontaneous business, but now that the type of technology transport has been recognized, there must be a clear business registration that has operated under the company model. However, up to now, motorbike taxi technology has been left hanging, no one is managing and no one is responsible (Chu Thi Hoa. (2022)).



The current legal basis for transporting passengers and goods by rudimentary vehicles, motorbikes, two-wheeled motorcycles, and similar vehicles includes: Circular 08/2009/TT-BGTVT dated June 23rd, 2009 of the Ministry of Transport guiding the use of rudimentary vehicles, mopeds, two-wheelers, and similar vehicles for transporting passengers and goods; This Circular is amended by Circular 46/2014/TT-BGTVT dated October 6, 2014. However, the above two documents only apply to traditional motorbike taxi activities while technology vehicles have not been mentioned access.

4. RECOMMENDED SOLUTIONS FOR FINISHING THE LEGAL REGULATION ON THE SHARING ECONOMIC MODEL IN ROAD TRANSPORTATION IN VIETNAM

4.1. Identify the sharing economy model in the transport sector and develop separate regulations

For road transport by car, the current law stipulates that the sharing economy model in the field of passenger transport by car is a type of transport business by car. Specifically, the passenger transport business under electronic contracts.

Do not define or allow enterprises to choose between only connecting service business and car transportation business when the connection service provider has performed at least one of the main stages of the operation. transportation (directly operating vehicles, driving or deciding freight rates) to transport passengers and goods on the road for-profit purposes.

Thus, at present, the sharing economy model in the field of road transport and the traditional road transport business is classified as the road transport business as a conditional business. Decree 10/2020/NĐ-CP, only stipulates conditions for transport by car.

For road transport by motorbike, the sharing economy model in the field of road transport has a large market share of two-wheelers, also known as technology motorbike taxis, but the law is still open.

As analyzed above, the sharing economy model in the transportation sector has certain characteristics that cannot be synchronized with the traditional transport business model. The two most characteristic problems of this model are: (1) not owning a means of transport and (2) not signing a labor contract with the driver. The essence of the sharing economy model is the application of a technology platform to connect people who need to use services with people who have the means and



spare time. From here, it creates great benefits for society, people who need to use cheap services, people with means and spare time have jobs to generate income, and connecting businesses saves costs.

Therefore, it is necessary to build a legal framework to ensure that the sharing economy model operates in the right way and performs its social functions. With these common points, it is necessary to develop a unified law for the sharing economy model in all fields.

4.2. Clearly define the relationship between the connection service business and the transport service provider

According to the solution in Section 4.1, we have 2 models of technology application in the field of road transport: (1) Enterprises only provide connection services according to the sharing economy model; (2) Enterprises apply connection services but participate in the process of driving drivers, vehicles and deciding rates.

In which, model (1) the author proposes that the relationship between connection service providers and drivers is a partnership and business cooperation. In this relationship, the driver can negotiate a tariff with the customer and only pay the connection service fee. The driver has the right not to accept the trip. In addition, it is necessary to have a welfare regime for drivers such as participating in voluntary social insurance, and connecting businesses must have the policy to support drivers' welfare.

Model (2) is managed by an enterprise providing connection services for drivers, so this is essentially an employment relationship. Therefore, enterprises must enter into labor contracts and fulfill all obligations to employees in terms of welfare and social insurance, health insurance, and unemployment insurance.

4.3. Tax administration for the sharing economy model

First, apply the Sandbox testing mechanism in tax management. It is necessary to fulfill tax obligations according to the transport enterprise, the revenue must be accounted for according to the total transaction value of the shipment, with a much larger number than the fee that the enterprise collects in the connecting role. If implemented under the policy Sandbox testing mechanism, this field will minimize the risk of cash flow.



Second, we think that when we identify two models as in Section 4.2, tax management becomes easier. If only providing connection services, the business side is subject to corporate income tax on turnover, the driver is subject to personal income tax according to regulations of business individuals and customers are subject to value-added tax. If according to the second model, the road transport business, the enterprise is subject to corporate income tax, the driver is subject to personal income tax, and the customer is subject to value-added tax.

Third, tax issues, especially tax collection by transnational service providers, and double taxation avoidance are issues that need attention in tax policy adjustment.

4.4. Legal basis for sharing economy in the field of road transport by motorbike

Firstly, develop a separate law for the sharing economy model in all fields, including regulating the sharing economy model in the field of motor transport.

Secondly, the motor transport business should be regulated into a conditional business line. It should be considered that this is a type of transport business and managed like other forms of passenger transport to ensure transparency and equality in transport business activities. In addition, we believe that there should be separate regulations to standardize means of transport and drivers to avoid traffic violations of current technology motorcyclists to protect social order and protect the interests of motorcyclists of consumers.

5. CONCLUSION

The sharing economy is a new business model for the Vietnamese legal system, an achievement of the fourth industrial revolution. Over the past time, this business model has brought many benefits to society, creating jobs, utilizing resources, and saving costs. Which, the sharing economy in the field of road transport is earlier and strongly developed. Because this is a new model when it was introduced to Vietnam, it caused damage to the traditional transport business, the Government had no experience in managing such a new business. The construction of a legal system to regulate this business model is faced with a difficult problem, how to both promote the strengths of the sharing economy model and protect the traditional transport business, ensure safety and security social for drivers, and



effective tax management. To solve this problem, the key point is to identify the sharing economy model in the field of road transport and trucking business. Clarifying this, the way to solve problems of competition, labor, and tax administration becomes clear.

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