

Jurisprudence thinking of differential charging system

Mengyao Li

Chang'an University, Xi'an 710021, China

yaoyao78667@163.com

Abstract. Differential charging system is an important system to reduce the cost of social logistics and improve the efficiency of the national road network. It plays an important role in testing the construction achievements of the government under the rule of law and implementing the citizens' sharing of development dividends. This paper starts with the jurisprudence of differential charging, uses the literature analysis method and the case study method to make a preliminary study on the jurisprudence of differential charging system, and finds that there are some jurisprudence problems in the current differential charging. This paper analyzes from three perspectives: reasonable and legitimate charges in entity procedures; The economic benefits of fees in government power and responsibility; The issue of fairness of charge in citizen's rights and obligations. By raising problems, parsing problems and settling problems, the paper finally puts forward countermeasures and suggestions on deepening the legalization of differentiated charges, such as speeding up legal entity procedures, promoting the government to improve quality and efficiency, and protecting citizens' rights, in order to provide countermeasures and reference for implementing the requirements of the government under the rule of law and promoting the legalization of differentiated charges.

Keywords: Differentiated charging system; Toll road system; Jurisprudence law; Highway law.

1. Introduction

The process of differentiated charging needs to carry out the thought of rule of law, among which reasonable, efficiency, fairness and other issues need to be considered at the legal level. In 1984, with the policy of "building roads with loans and paying back loans with fees", highway toll began to find legal support. The basic logic of differentiated toll collection policy is to guide the overall highway network through macro-control by different sections and ways, reduce congested sections, reduce freight comprehensive cost and improve travel satisfaction. It involves the questions of legitimacy, legality and relief ability. Therefore, this paper will clarify the qualitative and logical thinking of differentiated charging behavior from the legal perspective, and provide relevant legal suggestions for the implementation of policies.

The promotion process of differential charging policy

- ★ In August 2016, Several Opinions of the Ministry of Transport on Promoting supply-side Structural Reform and Promoting "Cost Reduction and Efficiency Increase" in logistics Industry
- ★ July 2018, "The General Office of the Ministry of Transport on the Expansion of differentiated Expressway Toll pilot Work guidance"
- ★ In May 2019, Notice of The General Office of the State Council on Printing and Distributing The Implementation Plan for Deepening the Reform of Toll Road System and Abolishing Toll Stations at Provincial Boundaries of Expressways,
- ★ In July 2019, the Ministry of Transport, the National Development and Reform Commission and the Ministry of Finance of the People's Republic of China issued a Notice on comprehensively cleaning up and regulating local Vehicle toll Reduction and Exemption Policies.
- ★ In June 2020, Circular of The General Office of the State Council transmitting the Opinions of the Ministry of Transport of the National Development and Reform Commission on Further Reducing Logistics Costs,
- ★ In March 2021, the Report on the Work of the Government mentioned again that "differentiated expressway tolls should be fully promoted"

Fig. 1 The promotion process of differential charging policy

2. Differentiation charge reform from the prospective of jurisprudence law

There are many legal theories about differential charging function. This paper selects some theories for analysis and discussion.

The results and procedures of differentiated toll collection entities are the key directions to explore the reasonable problem of highway toll collection. From the point of view of the entity of differentiated charges, the government uses price lever to adjust the total travel demand, improve traffic efficiency and reduce logistics costs. Therefore, the most important criterion to judge whether differentiated charging is reasonable or not lies in whether differentiated charging can effectively solve traffic congestion and improve road network efficiency. The question whether differentiated charging will lead to a new "free rush" is still doubtful from the perspective of practical test and legal interests, which needs further argumentation and consideration. From the point of view of differentiated charging procedures, the pricing standard reform of toll roads is the key to differentiation.

The current regulations on the establishment of charging standards, the establishment of the main procedures, standards open, and so on, all confirm the rationality of differentiated charging. The inadequacy lies in, once fee standard examination and approval procedure standard is determined, it is difficult to adjust, lack flexibility. In addition, differentiated toll collection should be connected with the Highway Project Construction Standard Management Measures. In practice, the operation method of toll road is not standard, auxiliary facilities are not matched, which is also the performance of toll road lack of road administration procedures. How to implement the procedure of safeguarding rights and how to improve the procedure of charging for cross-province and cross-time is the key point of thinking. Therefore, regarding the difference charge entity effect and the difference charge standard related procedure all needs to consider the reasonable charge question.

Differentiated fees increase input of human and material resources, further increase the financial burden of the government, resulting in government efficiency problems. As shown in the figure, the gap between toll road revenue and cost has widened to nearly 400 billion yuan. It is estimated that the total investment in high-speed projects in Jiangsu will exceed 300 billion yuan during the 14th Five-Year Plan period. The main reasons for this phenomenon are as follows: the government debt model leads to a "snowball" expansion of the debt balance, which is 6 trillion yuan; Road maintenance expenditure is expanding year by year, and the mileage of Road maintenance in China is rising constantly.

At present, ninety-nine percent of roads need maintenance; Government profit level drops, operating income decreases. According to the analysis of the total operating revenue in the first quarter of 2016-2020, the revenue of the high-speed sector decreased by 45% year-on-year, and the net profit and operating cash flow also decreased year-on-year. The government invested in the construction of ETC system, door frame system and other emerging charging facilities, which again aggravated the government financial deficit; In addition, affected by the epidemic, it is also necessary to consider whether the government needs to cover the bottom of the debt of operational expressways. The government needs to make up for the accumulation of a large amount of debt due to lending through differentiated charging policies.

In summary, the differentiated toll system refers to the dynamic adjustment of the charging method of citizens' travel arrangements and travel choices based on the original toll road, under the premise of "quasi-public goods provided by the government" and the theory of "making up for the lack of government finances" and the theory of "making up for the lack of government finances" to avoid the tragedy of the construction site.

From the point of view of substance, solving traffic congestion and improving the efficiency of road network are the key issues to explore the rationality of differentiated charging. According to experience, after the implementation of free passage in festivals, the centralized distribution of "free cakes" causes the public to pile up and "scramble", but the congestion problem may worsen. In this way, the problem is whether the "free cake" for specific time periods and entrances will lead to "stampeding." In the pilot process of time-sharing charging method in Chongqing, there is a

phenomenon that vehicles queue up in the upstream of the detection station to wait for the time card point of the detection station to reduce fees, which makes people doubt whether time-sharing mediation through price lever can bring real benefits. In addition, the specific operation of differentiated charging is doubtful to meet the expectation of personal efficiency. Time-sharing charging makes night traffic surge, which will increase the pressure of night travel. Diverting the entrance, there will be detour problems, more fuel, more environmental pollution, resulting in higher road transport costs. Therefore, it is an important criterion and main problem to test the rationality of entity effectiveness to meet public expectation.

From the point of procedure, legislative decision-making procedure, road administration law enforcement and rights protection service procedure are the key points to discuss rationality. Procedural openness and transparency are a great progress in procedural law, which plays a huge role in legislation, judicature and law enforcement. For decision-making procedures, it is better to determine the valuation standard of the difference amount of differentiated fees by The State Council and local governments, and fully solicit public opinions and hold hearings to implement; In terms of road law enforcement, the introduction of relevant standard laws and promotion procedures are reasonable. Road law enforcement personnel in some areas do not enforce the law according to the provisions, ignoring the road law enforcement procedures and standardization should be solved specifically to promote the implementation at the grass-roots level. Fee standard examination and approval procedures, standards dynamic adjustment, deal with the relationship between flexibility and fixed, will better promote the rationalization of fees at the procedural level. Therefore, the decision-making procedures of laws and regulations and specific implementation of grassroots issues, pricing standard procedures dynamic adjustment is a reasonable further deepening direction of charging procedures.

Under power analysis, the government is in a dominant position and has greater power. Among them, the most important power of the government is to exercise the function of managing public affairs authorized by the state, and obtain the right to collect fees or transfer fees with compensation authorized by law, and the right to examine and approve. In the case of commercial roads, the government gains profits through transfer and has the responsibility to supervise and manage the operating enterprises. Visible, difference charges 3 in the government is in dominant power.

Under the responsibility analysis, the government has diversified responsibilities and huge expenditure. Including the construction of infrastructure, road facilities, toll road staff training wages and welfare expenditures. It can be divided into legislative decision-making responsibility, management responsibility, maintenance responsibility and maintenance responsibility according to their roles. In terms of operational highways, the government's power lies in its responsibility to serve the people to the greatest extent, and it is also the government's due responsibility to invest in infrastructure construction. During the COVID-19 pandemic in 2020, the public responsibility of the government increased again, and expressways were free of charge up to 79 days, this has caused a serious impact on highway management enterprises and government highway management. This makes it difficult for highway management enterprises to obtain expected income within the specified time, affecting the enthusiasm of all kinds of capital into the field of highway construction. This shows that fiscal expenditure under the responsibility of the government keeps expanding. When the government properly handles the relationship between input costs and benefits, it fails to truly implement the principle of efficiency, that is, when the government formulates the administrative legal system and implements management actions, it does not use the minimum expenditure to obtain the maximum harvest results. Therefore, from the analysis of the government's powers and responsibilities, the issue of efficiency needs to properly handle the relationship between the government's powers and responsibilities in the three main bodies.

3. Deepen the development countermeasures for the legalization of differentiated fees

The 2021 Outline for the Construction of a Rule of Law Government is an important action plan for building a rule of law government in the new development stage [10]. In order to thoroughly implement the requirements of the "Outline" and combine the relevant analytical thinking at the level of jurisprudence above, the following countermeasures for development are proposed:

Promote the formulation of implementation rules for differentiated fees in the entity law of various localities according to local conditions, and further clarify relevant procedures. Among them, it focuses on the specific road section and time entity regulations, coordinates the charging standards, fuel consumption, transportation distance and other factors, effectively improves the overall road network operation efficiency, and reduces logistics costs. Detailed measures include: scientific and reasonable pricing by the government and highway operation management units; Achieve time-changing, dynamic tracking, and timely solve possible problems; Actively learn from the pilot reform experience of differentiated fees in Shanxi Province and Hubei Province; Strengthen policy publicity and interpretation to promote the concept of reasonable fees and charges; Innovate service models, further accelerate the implementation of rights protection service procedures, and government information disclosure procedures: make prices available in real time for all time periods and local sections, and let the majority of citizens understand preferential information in a timely manner; Establish and complete procedures for public participation, etc. Wait. Therefore, it is necessary to speed up the implementation of the procedures of scientific entities in various localities, continuously improve relevant policies and measures in the course of practice testing, and truly differentiate fees and charges reasonably and legally.

Operational highways and operational highways are grasped with both hands, and quality and efficiency are improved to achieve a win-win situation for all parties. In the commercial highway, the issue of fees and taxes of third-party highway operators authorized by the government should be clarified, and the government needs to strictly review and control, fully investigate, fully consider the demands of multiple parties, and achieve a win-win situation when carrying out subsidy expenditure; In the operation of the highway, the three systems of rights and responsibilities are clearly defined, that is, the list of duties and tasks, the list of responsibilities and boundaries, and the three systems of close cooperation mechanism. The implementation of the principle of efficiency needs to be coordinated with the third-party operating entities of local governments. Establish a tripartite responsibility and task list system, and implement the organic unity of matching the correspondence between personnel, posts, and responsibilities and the optimal allocation of resources. Due to the two modes of toll roads in China, government toll roads involving provincial governments and local governments are operational highways and franchise roads involving governments and third-party operating entities are commercial highways. Therefore, it is necessary to properly handle the relationship between the three so that the three can develop in harmony.

To this end, it is necessary to achieve this requirement: the three rights and responsibilities are implemented to the person, and the task is clear; Jurisdiction is collected, the borders are cleared, and the provinces prudently develop toll roads according to their needs. Close cooperation, the central local government revenue and expenditure budget is clear, "increase quality and efficiency", clarify the accountability mechanism, and avoid the situation of "power rent-seeking"; On the other hand, operational highways are coordinated by operating agreements, which need to be strictly reviewed and controlled. In this way, it promotes cost reduction and efficiency increase, and implements efficiency improvement.

Clarify the rights and obligations of citizens to further protect citizens' rights, and ultimately implement fairness and justice in the whole society. [11] It is necessary to always insist that differentiated fees are to serve the good life of citizens, so it is necessary to clarify what specific rights the people have after the completion of the payment obligation, and effectively improve the level of management services. 19 Specific measures include: establishing a standard hearing system for car owners, PPP, asset securitization, and debt-to-equity swaps on behalf of financing innovation to give

a number of suggestions to normalize, and clarify the right of all parties to participate; Establish relevant mobile terminal charging facilities and banknote replacement to solve the payment problem and maintain the dual channel use of paper electronic money; Strengthen the publicity of the fairness of differentiated fees and enhance the sense of satisfaction of citizens; Clarify the payment obligations of the public and the system of accountability for stealing fees; Cooperate with administrative law enforcement obligations; Summarize the disputes arising from key rights and obligations that occurred during the pilot stage and prevent problems before they occur. In short, it is necessary to clarify the rights and principles of the people, make them widely participate in social affairs, and promote fair fees.

4. Conclusion

This paper starts from the perspective of differential charging jurisprudence, uses literature analysis method and case study method to make a preliminary study on the legal principle of differential charging system, and finds that there are some jurisprudential problems in the current differential charging. This paper analyzes from three perspectives: reasonable and legitimate charges in entity procedures; The economic benefits of fees in government power and responsibility; The issue of fairness of charge in citizen's rights and obligations. Through exploring to find problems, analysis the problem and put forward the related countermeasures of thinking, finally put forward to speed up the legal entity program promote government quality, increase efficiency, clear guarantee civil rights, on deepening differential fees under the rule of law in the development of countermeasures and Suggestions, in order to be able to implement the rule of law government, promote differentiation of fees under the rule of law is required to provide countermeasure and the reference. In addition, there are some shortcomings in this paper. The construction of China's highway network is still in progress, and laws and policies are constantly improved. The further research issues include: how to deal with the dynamic and authoritative procedures of differentiated toll pricing standard; How to grasp the "degree" of economic benefit and let benefit for the people, how to determine the balance and weight relationship between benefit and fairness, etc. All in all, the legal road and jurisprudence thinking of differential charging need further study.

References

- [1] In 1984, Regulations on Charging Vehicle Tolls for Loan Construction of High-grade Highways, Large Highway Bridges and Tunnels was issued. *China Highway*, 2021, (08): 38-40.
- [2] Xu Li. Differentiated Toll collection is not a simple discount [J]. *China Highway*, 2021, (08): 38-40.
- [3] [National Toll Road Statistical Bulletin 2019, Ministry of Transport].
- [4] Editorial Department of This Journal. Thinking of Ways for Money [J]. *China Highway*, 2021(04):2.
- [5] Transportation2021-05-1900019713004/2021-00094 Statistical Bulletin on the Development of the Transportation Industry in 2020.
- [6] Li Yun. Let toll roads enter the track of fairness and efficiency[J]. *Citizen Rule of Law*, 2016(10):74.
- [7] MENG Hongzhi, QIN Zuwei. Legal Reflections on toll road free passage regulations [J]. *Law Forum*, 2014, 29(06): 125-131.
- [8] Tian Boping. Parallel Charging and Tax Collection [N]. *China Transportation News*, 2015-08-14(003).
- [9] XUE Gangling. Research on the Basic Principles of Administrative Law[J]. *Research on Administrative Law*, 1999(01):1-11.
- [10] ZHANG Zhiyuan. The Characteristics of the Era of Rule of Law Government Construction in the New Development Stage: Legal Comprehension reading of the Implementation Outline for the Construction of Rule of Law Government (2021-2025) [J]. *Rule of Law Research*, 2021(05):18-25.
- [11] YANG Wanjie. The key to differentiated toll collection on expressways is to "remember the original intention"[J]. *Xiaokang*, 2021(19): 86.