



中南财经政法大学
青年学术文库

中国地方税研究

高亚军 著

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总 序

一个没有思想活动和缺乏学术氛围的大学校园，哪怕它在物质上再美丽、再现代，在精神上也是荒凉和贫瘠的。欧洲历史上最早的大学就是源于学术。大学与学术的关联不仅体现在字面上，更重要的是，思想与学术，可谓大学的生命力与活力之源。

中南财经政法大学是一所学术气氛浓郁的财经政法高等学府。范文澜、嵇文甫、潘梓年、马哲民等一代学术宗师播撒的学术火种，五十多年来一代代薪火相传。世纪之交，在合并组建新校而揭开学校发展新的历史篇章的时候，学校确立了“学术兴校，科研强校”的发展战略。这不仅是对学校五十多年学术文化与学术传统的历史性传承，而且是谱写 21 世纪学校发展新篇章的战略性手笔。

“学术兴校，科研强校”的“兴”与“强”，是奋斗目标，更是奋斗过程。我们是目的论与过程论的统一论者。我们将对宏伟目标的追求过程寓于脚踏实地的奋斗过程之中。由学校斥资资助出版《中南财经政法大学青年学术文库》，就是学校采取的具体举措之一。

本文库的指导思想或学术旨趣，首先在于推出学术精品。通过资助出版学术精品，形成精品学术成果的园地，培育精品意识和精品氛围，提高学术成果的质量和水平，为繁荣国家财经、政法、管理以及人文科学研究，解决党和国家面临的重大经济、社会问题，作出我校应有的贡献。其次，培养学术队伍，特别是通过对一批处在“成长期”的中青年学术骨干的成果予以资助推出，促进学术梯队的建设，提高学术队伍的实力与水平。再次，培育学术特色。通过资助在学术思想、学术方法以及学术见解等方面有独到和创新之处的成果，培育科研特色，力争通过努力，形成有我校特色的学术流派与学术思想体系。因此，本文库重点面向中青年，重

点面向精品，重点面向原创性学术专著。

春华秋实。让我们共同来精心耕种文库这块学术园地，让学术果实挂满枝头，让思想之花满园飘香。



2009 年 10 月

Preface

A university campus, if it holds no intellectual activities or possesses no academic atmosphere, no matter how physically beautiful or modern it is, it would be spiritually desolate and barren. In fact, the earliest historical European universities started from academic learning. The relationship between a university and the academic learning cannot just be interpreted literally, but more importantly, it should be set on the ideas and academic learning which are the so-called sources of the energy and vitality of all universities.

Zhongnan University of Economics and Law is a high education institution which enjoys rich academic atmosphere. Having the academic germs seeded by such great masters as Fanwenlan, Jiwenfu, Panzinian and Mazhemmin, generations of scholars and students in this university have been sharing the favorable academic atmosphere and making their own contributions to it, especially during the past fifty-five years. As a result, at the beginning of the new century when a new historical new page is turned over with the combination of Zhongnan University of Finance and Economics and Zhongnan University of Politics and Law, the newly established university has set its developing strategy as "Making the University Prosperous with academic learning; Strengthening the University with scientific research", which is not only a historical inheritance of more than fifty years of academic culture and tradition, but also a strategic decision which is to lift our university onto a higher developing stage in the 21st century.

Our ultimate goal is to make the university prosperous and strong, even through our struggling process, in a greater sense. We tend to unify the destination and the process as to combine the pursuing process of our magnificent goal with the practical struggling process. The youth's Academic Library of Zhongnan University of Economics and Law, funded by the university, is one of our specific

measures.

The guideline or academic theme of this Library lies first at promoting the publishing of selected academic works. By funding them, an academic garden with high – quality fruits can come into being. We should also make great efforts to form the awareness and atmosphere of selected works and improve the quality and standard of our academic productions, so as to make our own contributions in developing such fields as finance, economics, politics, law and literate humanity, as well as in working out solutions for major economic and social problems facing our country and the Communist Party. Secondly, our aim is to form some academic teams, especially through funding the publishing of works of the middle – aged and young academic cadreman, to boost the construction of academic teams and enhance the strength and standard of our academic groups. Thirdly, we aim at making a specific academic field of our university. By funding those academic fruits which have some original or innovative points in their ideas, methods and views, we expect to engender our own characteristic in scientific research. Our final goal is to form an academic school and establish an academic idea system of our university through our efforts. Thus, this Library makes great emphases particularly on the middle – aged and young people, selected works, and original academic monographs.

Sowing seeds in the spring will lead to a prospective harvest in the autumn. Thus, Let us get together to cultivate this academic garden and make it be opulent with academic fruits and intellectual flowers.

Wu Handong

摘 要

地方税研究源于提高政府效率的需要,其基本原因在于,现实生活中,一国公民既有个人需求,也有集体需求,市场机制通过提供私人商品满足个人需求是最有效率的,但对于满足集体需求的公共商品的供给却存在市场失灵,这就为政府介入资源配置提供了必要的理论依据。但政府提供公共商品同样存在效率问题,因此,国内外许多学者始终致力于提高政府效率的研究。大家普遍认为,不同辖区居民的集体偏好存在差异,且公共商品存在层次性与地域性特征,由各级政府根据辖区居民的偏好分别提供公共商品能提高资源配置效率,而由此首先涉及的就是政府间事权与财权的划分。其中,地方政府财权财力的配置与地方税密切相关。

我国自1994年起实施分税制财政管理体制,通过税种的划分明确了中央政府和地方政府之间的基本财政分配关系,也使得我国自新中国建立以来首次从制度上确立了地方税制度和体系。其多年的实践表明,地方税制度的建立,一定程度上调动了地方政府的积极性,促进了税收收入整体的快速增长以及地方公共商品数量和质量提高。但同时不能不看到的一个问题是,1994年税制改革至今,我国税制的改革实际上始终围绕着中央税和共享税进行,长期忽视地方税制度建设。而地方税改革的相对滞后导致地方政府财力不稳定,收费泛滥和规模日益膨胀,以及地方税征管领域矛盾重重等诸多问题,且已严重影响整个税收制度的完善和分税制财政体制改革的推进,也成为公共财政建设亟须解决的现实问题之一。由于我国市场化改革的不断深入,地方各级政府作为具有自主行事权力和能力的多级政府,在提供地方公共商品和公共服务、协调地区内部经济健康发展方面已发挥着越来越重要的作用。因此,地方税制度重构所面临的一系列相关问题迫切需要学界作出理论解释,并寻求相应的对策。

本书从以下几个方面对地方税制度的重构问题进行了较为深入的分析和探讨。

第一，对地方税的相关概念进行理论界定。如地方税和地方税收，地方税制度和地方税体系，地方财权和地方财力等。基于地方税的基本概念，明确地方税的税权、事权和财权的划分、财权和财力的配置等问题的内涵与外延，确定本书的研究范围和基本思路。

第二，论述了地方税形成的理论机理，为地方税的重构提供理论模型。从理论上讲，地方税的存在依据源于两个方面，一是财政分权理论，二是公共商品需求的层次性和差异性。尽管也有学者认为，公共商品需求的层次性和差异性为财政分权理论产生的依据，因而，这两者如出一辙，但笔者认为地方税的存在是源于两个方面而非一个方面：财政分权理论从提高政府效率的角度出发，为地方辖区居民提供公共服务，而公共商品需求的层次性和差异性则主要是从地方居民的需求偏好出发，希望自己选出的地方政府官员提供满足偏好的公共服务。即前者是自上而下的分权，后者则是自下而上的监督。也就是说，财政分权理论是从供给的角度为地方税的存在提供理论依据，而公共商品需求的层次性和差异性则从需求的角度为地方税的存在提供了实践依据。因此，地方税形成的理论机理在于：政府与市场的合理分工→中央政府和地方政府的职能界定，并据此进行的政府间事权划分→基于事权的分配进行政府间财权的划分与财力的配置。其中，地方政府的事权与财权、财力配置问题与地方税密切相关。在地方政府事权既定的条件下，地方政府的财权有地方举债、各种收费、政府间转移支付和地方性税收等。本书认为，在地方政府诸多收入来源之中，地方税的内在属性决定了地方税是理顺中央和地方财政分配关系、保障地方政府权力以及为地方政府提供公共商品和公共服务提供稳定资金来源的一种重要的筹资方式。

第三，对我国现行地方税制度进行经验分析。从地方税制度缺乏总体规划、地方税制改革滞后、主体税种缺失、地方税种在不同地区具有明显差异等现状着手，分析了由于上述问题导致的地方税收收入规模偏低、地方税与地方经济缺乏相关性、税费错位、地区差距不均衡等一系列负面效应。并从税权划分不合理、事权和财权划分不合理等方面分析了我国地方税制度不完善的成因，而且通过对财政分权的法制不健全、行政分权妨碍了财政分权的分析，指出由于制度上的原因导致我国财政分权的不完善，进而引发了地方税制度运行过程中的一系列问题。

第四，地方税制度重构的国际经验借鉴和启示。财政分权理论和公共

商品理论都源于西方发达国家，因此，本书主要就西方国家的财政分权理论下地方税制度的运行和构建进行系统分析。由于地方税制度的建立在很大程度上受到分权和集权的影响，本书不仅选取美国和德国这样分权的联邦制国家，还选择了法国和日本这样中央集权的单一制国家，对其地方税制度的运行实践进行分析。就地方税制度的建立和完善的几个主要方面，如事权划分、税权划分、税种设置和配套措施等进行了比较分析，并抽象出相关结论。同时，还对经济转型国家和发展中国家的财政分权理论和地方税制度进行了分析。

第五，基于地方税的形成机理以及国外地方税制度建设的经验借鉴，提出我国地方税制度重构的对策与建议。首先，根据税收立法权、收入权和管理权在地方税制度中的归属问题，进行税权划分；其次，就财政分权理论下地方税应具备的特征和条件以及我国地方税制度现状，提出改革现行地方税种、合理选择地方税主体税种的政策建议；再次，就地方税制度的完善提出相关配套改革措施：一是合理划分政府间事权；二是为确保地方政府财力，适当赋予地方费权和债权；三是完善地方税制度的适度补充——转移支付制度；最后，从法律上对地方税制度的改革和完善给予保障，即制定《税收基本法》，以法律的形式规定政府间的财政分权行为、制定转移支付法等。

就本书而言，可能存在的突破在于：

第一，对地方税进行了理论界定，并在此基础上论述了地方税形成的理论机理，为地方税制度的重构提供理论模型。

第二，认为地方税不仅仅是一个税收问题或财政问题，更是一个政治问题，所以，本书在写作中注重从制度上和法律上对地方税问题的影响因素进行分析，而非过分地就税论税；并通过探讨财政分权和行政分权的关系，认为地方税问题首先是政治问题，然后是法律问题，最后才是财政问题。

第三，从税收立法权、收入权和管理权的归属对税权的归属问题进行系统分析。以此作为地方税内涵的界定标准，以期为地方税税种划分和收入的归属提供理论依据。

但是，本书写作中也存在着不足，包括：一是由于数据获取及数据真实性、准确性上的限制使得有些定量分析仍有较大的改进空间。二是由于地方税问题更多地体现在制度上，如宪政和民主、地方官员的任命和绩效

考核制度都影响到地方财政问题，进而影响到地方税，但是在我国目前状况下，由于行政分权对财政分权具有约束，无法解决这些制度性问题，因此，地方税因制度上的原因而产生的问题将继续存在，本书限于篇幅和写作水平的限制并未深入探讨。三是限于篇幅，未能在宪政为基础的法律研究上深入讨论地方税的法律体系问题，以及相关的税权划分问题。这些不足也将是本书继续修改和研究之处。

关键词：地方税 财政分权 事权 财权 主体税种

Abstract

The study of local tax system stems from the need of promoting the administrative efficiency of governments. As we know, citizens show private demands and collective demands. Market mechanism, which provides private goods to satisfy private demands, is the most effective. Market failure to provide public goods and services for collective demands are commonly used as a basis for recommending government intervention in resources allocating. However, government activities itself bring about inefficiency. As a result, scholars at home and abroad commit themselves to the research to promote the administrative efficiency of governments. They believe that citizens' collective preferences in different political jurisdictions are diverse and public goods and services have the characteristic of regional and level. Such goods and services are likely to be most effective produced by levels of government according to citizens' various preferences. And this gives rise to the division of duty power and financial power among governments of different levels. Under the situation of market economy, the allocation of property power and duty power relates to local taxations closely.

Tax sharing management system, which was carried out in 1994, confined the distribution of tax revenue and established the local tax system at first time since the foundation of the People's Republic of China. Years of practice indicate, after the establishment of local tax system, local governments' positive was promoted. The tax revenue increased steadily and the quantity and quality of local public goods was improved. However there is one question which can't be denied: since the tax system reform in 1994, the tax reform focused on the collection and administration of central taxes and shared taxes, the local tax system was neglected. The delay of its reform led to a series of problems, such as the instability of local finance, the expansion of the power and scale of fee collecting

and the contradiction of levying and administration of local taxes, seriously affecting the improvement of the whole tax system and advance of the reform of tax sharing system. It becomes one of the problems, which need to be solved urgently for setting up public finance. With the advancing of market-oriented reforms, levels of local government play a more and more important role in providing local public goods and harmonizing economic development within the local areas. Therefore, the restruction of local tax system is faced with a series of correlative questions that need to be explained and solved.

The paper discusses the restruction of local tax system in-depth from six aspects:

Firstly, to define the concepts concerning local taxes, such as local tax and local tax revenue, local tax system and the structure of local taxes and local property power and local financial capacity. The paper defines the connotation and extension of the local tax power, the factors that influence the scale of local tax revenue and the match of duty power and property power based on the basic concepts of local taxes. The author ascertains the researching scope and the basic skeleton, and analyzes the local tax category from the viewpoint of tax essential. In terms of the essences and features of local taxes.

Secondly, to discuss the theoretical mechanism of the form of local taxes and set up a theoretical model for the restructure of local tax system. Ideally, the existence of local taxes is derived from two aspects: One is theory of fiscal decentralization, the other is the gradations and variations of collective demands. Of course, some scholars believe the gradations and variations of collective demands gives rise to theory of fiscal decentralization. Actually, the two ideas are similar to each other. The reason why local taxes are derived from two facets, not one facet is that the two ideas have different starting points. Theory of fiscal decentralization refers to local governments should provide local public goods according to local citizens' preferences in order to promote the administrative efficiency of governments. Because of the gradations and variations of collective demands, the local citizens hope that the local officials they vote for would provide public goods and services to satisfy their preferences. The former is decentralization from head to toe, and the latter is supervision from toe to head. That is, theory of fiscal

decentralization provides theoretical support for the existence of local taxes from the supply. The gradations and variations of collective demands provide practical support for the existence of local taxes from the demand. Thereby, the theoretical mechanisms of the form of local taxes are as follows. Reasonable division between governments—function confirming between government, and on the base, carrying on the division of central government and local government – then the financial capacity matching between government on the base of intergovernmental duty power. The research of property power match involves the local tax. Given the power of local governments, sources of revenue for local governments include local taxes, debt finance, users charge and intergovernmental transfer payment. The author argues that, among these sources of revenue for local governments, local tax revenue is one important way to finance local governments, which harmonizes the division between the central finance and local finance, secures the right of local government and provides fund for the supplies of local public goods and services. This is determined by the internal attributes of local taxes.

Thirdly, to discuss the current local tax system in China. Judging from legal basis and the division between property power and duty power, local tax system leaves much to be improved including the unscientific division of tax power, the absence of core taxes, irrationality of local tax categories, the scale of local tax revenue being small and the relation not being close between local taxes and local economy, which led to a series of negative effects. For example, fiscal revenue structure of local governments is disorder, distort of tax and fee, and division gap.

Fourthly, to demonstrate successful experience of foreign countries about the restructure of local tax system. Both theory of fiscal decentralization and public goods theory are derived from western developed countries. Thereby, the thesis analyzes systematically the operation of local tax system and the establishment of local tax system. Because the centralization and decentralization influence significantly the establishment of local tax system, so the thesis not only chooses federal countries including America and Germany, but also chooses countries with centralization of authority involving France and Japan to analyze comparatively the operation of local taxes. The thesis analyzes comparatively the estab-

lishment and improvement of local tax system in terms of the division of government functions, the division of tax power, tax category and coordinated reforms and reach to the conclusion. Furthermore, the thesis discusses the theory of fiscal decentralization and local tax system of transition economics countries.

Fifthly, in reference to the theoretical mechanism of local taxations and the experience of foreign countries, the thesis puts forth proposals for the restructure of local tax system in China.

As to this thesis, there are some breakthroughs in the following:

Firstly, to define the local taxes theoretically, discuss the theoretical mechanisms of the form of local taxes and set up a theoretical for the restructure of local tax system.

Secondly, to argue the local taxes are not only tax issue, but also political issue. So, the thesis puts the study of local tax under fiscal theories and research methods, not discusses tax issues solely in terms of taxes. The thesis believes that the local tax issue, first is political issue, then is law issue and final is fiscal issue in terms of the relationship between fiscal decentralization and political decentralization.

Thirdly, to divide the tax power between the central government and local governments according to the adscription of the authority of tax legislation, collecting taxes and administration in local tax system and provide theoretical basis for the adscription of the local tax types and tax revenue.

Fourthly, to consider it is feasible property tax is used as the core local tax type according to the experience of other countries, the feature of taxes and the responsibilities of local governments.

However, there are deficiencies in this thesis, which will be revised and studied in the future. The deficiencies are reflects in the following: first, the data statistics led to the shortcomings of methods in data selecting, statistic and calculating, which results in some quantitative problems, such as the scale of local tax revenue and the difficulty in demonstrating the relationship between local tax revenue and local economic development. Secondly, the local tax problems tend to be shown from system, such as constitutionalism and democracy, system of appointing and assessing local officials, which affects local finance, then local ta-

xes. But under current situations in China, due to fiscal decentralization restrained by political decentralization, those systematic questions can't be solved. So the problems due to the local tax system will exist. The thesis doesn't go deeper into because of the space and ability. But they will be persistently concerned in the further study. Thirdly, failing in further discussing the law structure of local tax in terms of law study based on constitutionalism and issue about the division of tax power.

Key Words: Local Tax; Fiscal Decentralization; Duty Power; Property Power; Principal Taxes