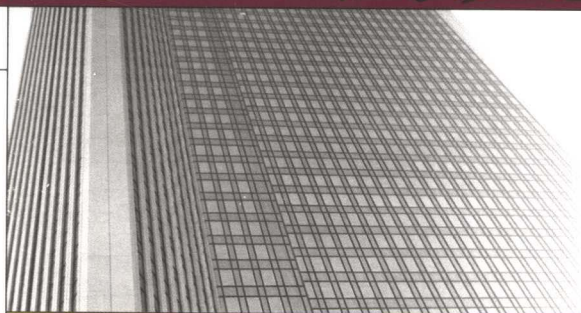


税法研究文库 总主编 刘剑文

转让定价 法律问题研究



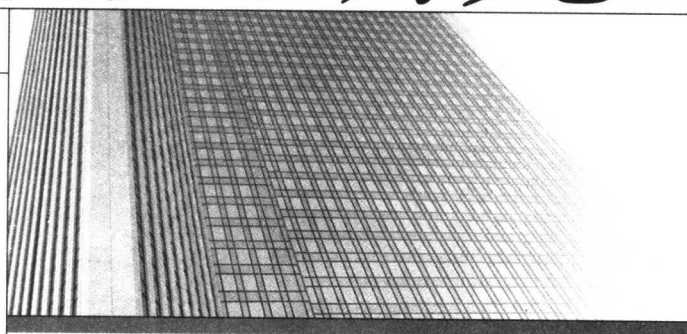
刘永伟 ⊙ 著



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总 序

《税法研究文库》是继《财税法系列教材》、《财税法论丛》和《当代中国依法治税丛书》之后由我主持推出的另一个大型税法研究项目。该项目的目的不仅在于展示当代中国税法学研究的最新成果,更在于激励具有创新精神的年轻学者脱颖而出,在传播、推广税法知识的同时,加快税法研究职业团队的建设和形成。

税法学是一门年轻、开放、尚处于成长期的新学科。谓其年轻,是因为它不像民法学和刑法学一样拥有悠久的历史渊源;谓其开放,是因为它与经济学、管理学以及其他法学学科等存在多方面的交叉与融合;谓其成长,是因为它的应用和发展空间无限广阔。在我国加入世界贸易组织之后,随着民主宪政、税收法治等先进理念的普及和深入,纳税人的权利意识越发强烈,其对税收的课征比任何时期都更为敏感和关心。税法学的存在价值,正在于科学地发现和把握征纳双方的利益平衡,在公平、正义理念的指导下,实现国家税收秩序的稳定与和谐。

长期以来,我一直致力于税法学的教学和研究,发表和出版了一系列论文和专著,主持了多项国家级科研课题,对中国税法学的发展以及税收法制建设作了一些力所能及的工作。然而,不容否认,中国税法学的研究力量仍然十分薄弱,有分量的研究成果也不多见,税法和税法学的应有地位与现实形成强烈的反差。我深深地感到,要想改变这种状态,绝非某个人或单位力所能逮。当务之急,必须聚集和整合全国范围内的研究资源,挖掘和培养一批敢创新、有积累的年轻税法学者,在建设相对稳定的职业研究团体的同时,形成结构合理的学术梯队,通过集体的力量组织专题攻关。惟其如此,中国税法学才有可能展开平等的国际对话,而税法学研究的薪火也才能代代相传,生生不息。

近年来,我先后主编《财税法系列教材》、《财税法论丛》、《当代中国依法治税丛书》,这三项计划的开展,不仅使税法学研究的问题、方

法和进程逐渐为法学界所熟悉和认同,同时也推动了税法学界的交流与合作。在此过程中,我既看到了新一代税法学者的耕耘和梦想,更感受到了他们在研究途中跋涉的艰辛。这群年轻的学者大多已取得博士学位,或已取得副教授职称,且至少熟练掌握一门外语。最为重要的是,他们对专业充满热忱,愿意为中国税法学贡献毕生精力。正是在他们的期待和鼓励下,为了展示中国税法学的成长和进步,激励更多的优秀人才加入研究队伍,我与北京大学出版社积极接触、多次磋商,终于在2002年达成了本文库的出版协议。

衷心感谢北京大学出版社对中国税法学的积极扶持。如果没有对学术事业的关心和远见,他们不会愿意承担作品出版的全部市场风险,更不会愿意按正常标准支付稿费。此举的意义,远远溢出了—种商业架构,事实上为中国年轻的税法学提供了一个新的发展机遇。正是他们的支持,才使得主编可以严格按照学术标准组织稿件,也使得作者可以心无旁骛,潜心研究和创作。若干年之后,当人们梳理中国税法学进步的脉络时,除了列举税法学人的成果和贡献,也应该为所有提供过支持的出版机构写上重重的一笔。这里,我还要代表全体作者特别感谢北京大学出版社副总编杨立范先生,他的智识和筹划,是本文库得以与读者见面不可或缺的重要因素。

本文库计划每年出版3—5本,内容涉及税法哲学、税法史学、税法制度学;税收体制法、税收实体法、税收程序法;税收收入法、税收支出法;国内税法、外国税法、国际税法、比较税法等多重角度和层面。只要观点鲜明,体系严密,资料翔实,论证有力,不管何种风格的税法专著都可成为文库的优选对象。我们希望,本文库能够成为展示税法理论成果的窗口,成为促进税法学术交流的平台。如果能够由此发现和锻炼更多的税法学人,推动税法理论与实践的沟通和互动,我们编辑文库的目的就已经基本实现。

刘剑文

2003年元旦于北京大学财经法研究中心

中国财税法网(www.cftl.cn)

中国税法网(www.cntl.cn)

General Preface

Works of Research on Taxation Law Theories is another large research project on taxation law study presided by me after the publications of Textbooks Series of Fiscal Law & Taxation Law, Fiscal Law & Taxation Law Review and Rule Taxation by Law in Modern China. Rather than demonstrating the latest achievements on the theoretical study of taxation law, this project focuses more on inspiring the scholars with innovative spirit showing themselves. While promulgating the knowledge of taxation laws, a group of professionals studying on taxation law theories is forming and developing.

Taxation law is a rising, open and growing subject. It is rising because it has not so long a history as civil law or criminal law. It is open because it intersects with economics, management and other law subjects. It is growing because it has promising future for its application and development. The taxpayers will be greatly awakened to their rights on the course of tax levying with China's entering into WTO and the popularization of the ideas of democracy and rule the tax by laws. The value of theoretical study on taxation law exists in scientifically finding a balance spot between the taxpayers and levier, which would help to realize a stable and harmonious taxation system among the whole country with the direction of equity and justice ideas.

For a long period of time, I had been dedicated to the teaching and studying of the taxation law. Many theses and monographs had been published and many national research projects presided by me, which were all what I could do to the development and construction of the theoretical study on taxation law of China in my own power. However, we should not neglect that neither researching ability nor influential achievements have been satisfactory. They could not match up the cor-

responding positions of taxation law and the theoretical study on it. I came to realize that any individual or organization would never be able to better the situations. At present, the most urgent thing is to congregate all the researching resources around the country in conformity and cultivate a group of young but erudite scholars on taxation law. Thus, a relatively stable group of professionals would be organized to form the academic ladders with reasonable structure. We could depend on the collective powers to study on some specified topics respectively. I think it is the only way to equalize the domestic study on taxation law with international study. Also by this way, the study on taxation law would continue generation by generation and never cease.

Recent years, I have successively presided three projects including editing Textbooks Series of Fiscal Law & Taxation Law, Fiscal Law & Taxation Law Review and Rule Taxation by Law in Modern China. During the process, the topics, methodologies and procedures of the theoretical study on taxation law had been gradually acquainted and accepted by the academic circles and the exchange and cooperation among them had also been greatly promoted. During the course, I not only observed that the new generation of scholars on taxation law study worked hard and cherish beautiful dream to the future, but also their hardships in research. Most of the young scholars have acquired PH. D. degrees or become the associate professor, and at least fluently master a foreign language. Their zealousness shall be more important, and they are willing to devote their whole life to the career. It is under their expectation and encouragement that more and more excellent talents participate in the career. After my positive communications and constant consultations with Peking University Press, a publication agreement has finally come to for this Works in 2002.

I sincerely express my gratitude to Peking University Press here for their support to the theoretical study on taxation law in China. They would neither take risks to publish all the works nor pay the authors' remunerations according to market standard if they were shortsighted to the academic project, which are far from a business activity and provide

a good opportunity for the young scholars of taxation law study. It is their support that the editor in chief could select the works strictly according to the academic standard and the authors could dedicate to their research and composition. I believe that many years later while reviewing the developing history of the theoretical study on taxation law in China, they will not only remember the scholars and their achievements, but also remember the contributions from Peking University Press. Here, on behalf of all the authors, I shall thank Mr. Yang Li-fang, Vice Editor in Chief of Peking University Press, for his wisdom to and design for the Works, or they would never been published.

Annually, 3 to 5 books will be published to affiliate the Works. The contents of these books mainly concerns about philosophy of taxation law, history of taxation law, study on taxation law system, taxation law system, taxation law, taxation procedure law, taxation income law, taxation expenditure law, domestic taxation law, foreign taxation law, international taxation law and comparative taxation law. All the monographs with various styles could become members of this Works if they are of clear point of view, rigorous logic, accurate documents and strong reasoning. We hope that the Works could become a window to demonstrate the theoretical achievements of taxation law study and a platform for academic exchanges. If more scholars on taxation law study could be discovered and the practice and theories of taxation law could be exchanged and co-developed simultaneously with the publication of the Works, our targets to edit the Works are fundamentally achieved.

Liu Jianwen

On New Years' Day of 2003

In Research Center of Fiscal and Taxation Law Peking University

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CONTENTS 目 录

绪言	1
第一章 转让定价制度一般研究	11
第一节 关联企业间转让定价制度概述	11
一、关联企业的概念	11
二、转让定价的概念	16
三、转让定价制度的概念	22
第二节 正常交易原则	25
一、正常交易原则的概念与优缺点	25
二、正常交易原则的运用及其发展趋势	30
第二章 有形财产交易转让定价方法研究(上)	
——传统定价方法研究	35
第一节 有形财产交易传统的转让定价方法概述	35
一、有形财产的概念	35
二、转让定价方法(Transfer Pricing Methods)	
的概念	36
三、传统的转让定价方法	37
第二节 可比非受控价格法	40
一、可比非受控价格法的含义	40
二、可比非受控价格法的适用条件及可比因素	
差异的调整	41
三、可比非受控价格法的优缺点	45

CONTENTS 目 录

第三节 再销售价格法	47
一、再销售价格法的含义	47
二、再销售价格法的适用条件及可比因素差异的调整	49
三、再销售价格法的特点与优缺点	51
第四节 成本加价法	53
一、成本加价法的含义	53
二、成本加价法的适用条件及可比因素差异的调整	54
三、成本加价法的优缺点	56
第五节 对传统交易法的简要评论	58

第三章 有形资产交易转让定价方法研究(下)

——交易利润定价法研究	61
第一节 有形资产交易利润定价方法概述	61
第二节 利润分割法	64
一、利润分割法的概念与历史演变	64
二、利润分割法的适用	66
三、利润分割法的优缺点	71
第三节 可比利润法	72
一、可比利润法的概念及历史演变	72
二、可比利润法的适用	74
三、可比利润法的优缺点	77
第四节 交易净利润法	79
一、交易净利润法的概念及历史演变	79
二、交易净利润法的适用及差异因素的调整	80

CONTENTS 目 录

三、交易净利润法的优缺点	82
第五节 对交易利润定价法的补充与简要评论	83
<hr/>	
第四章 非有形财产交易转让定价法律问题研究	86
第一节 概述	86
第二节 无形资产转让定价法律问题研究	87
一、无形资产的概念、种类与特点	87
二、美国关于无形资产的转让定价规则	93
三、OECD 转让定价指南关于无形资产的特殊考虑	102
第三节 提供劳务转让定价法律问题研究	107
一、关联企业内部劳务的提供	107
二、正常交易原则的适用	108
第四节 成本分摊安排	115
一、成本分摊安排的概念	115
二、美国关于成本分摊协议的规定	117
三、OECD 关于成本分摊安排的规定	118
第五节 电子商务的转让定价问题	127
一、电子商务的含义及其给国际税法所带来的挑战	127
二、电子商务对转让定价制度的挑战	131
<hr/>	
第五章 转让定价征管程序研究	138
第一节 转让定价征管程序的含义	138
第二节 纳税人的申报	138

CONTENTS 目 录

第三节 税务机关的调查与审计	141
一、调查与审计	141
二、关于非精确申报的罚款	142
三、同期稽查	145
第四节 转让定价争议的解决	147
一、相互协商程序	147
二、仲裁	150
第五节 事先定价安排	156
一、事先定价安排的概念与历史发展	156
二、事先定价安排程序的有关主要内容与做法	158
三、事先定价安排的性质与优缺点	163
<hr/>	
第六章 我国转让定价的税收立法及完善研究	167
第一节 转让定价税收立法概述	167
一、转让定价立法的背景与历史发展	167
二、转让定价制度的法律渊源	170
三、转让定价法律制度的主要内容	171
第二节 转让定价制度适用的范围、	
原则及其完善	175
一、转让定价制度适用范围和原则	175
二、转让定价制度适用范围和原则存在的缺陷	178
三、转让定价制度适用范围和原则的完善	179
第三节 转让定价方法及其完善	180
一、转让定价方法	180
二、转让定价方法所存在的缺陷	183
三、转让定价方法的完善	187

CONTENTS 目 录

第四节 转让定价征管程序的规定及其完善	191
一、转让定价征管程序的主要内容	191
二、转让定价税收征管程序的规定	
所存在的缺陷	194
三、转让定价税收征管程序的完善	195
<hr/>	
附录一 关联企业间业务往来税务管理规程	
(试行)	202
附录二 术语释义(中英文对照)	215
主要参考资料	228
后记	232

CONTENTS 目 录

Preface	1
----------------	----------

Chapter one General Study on Transfer Pricing Regime	11
Section 1 Concept of Transfer Pricing Regime	11
1. Concept of Related Enterprises	11
2. Concept of Transfer Pricing	16
3. Concept of Transfer Pricing Regime	22
Section 2 Arm's Length Principle	25
1. Concept of Arm's Length Principle and Its Advantages & Disadvantages	25
2. The Application of Arm's Length Principle and Its Development Trend	30

Chapter Two Research into the Transfer Pricing Methods of Tangible Goods (1)	
—Traditional Transaction Methods Study	35
Section 1 General Account on the traditional Transfer Pricing Methods of Tangible Goods	35
1. Concept of Tangible Goods	35
2. Concept of Transfer Pricing Methods	36
3. Traditional Transfer Pricing Methods	37
Section 2 Comparable Uncontrolled Price Method	40
1. The Conception of Comparable Uncontrolled Price Method	40

CONTENTS 目 录

2. The Terms of Application of Comparable Uncontrolled Price Method and the Adjustment for the Comparable Factors Differences	41
3. The Advantages and Disadvantages of Comparable Uncontrolled Price Method	45
Section 3 Resale Price Method	47
1. The Conception of Resale Price Method	47
2. The Terms of Application of Resale Price Method and the Adjustment for the Comparable Factors Differences	49
3. The Characteristics, Advantages and Disadvantages of Resale Price Method	51
Section 4 Cost Plus Method	53
1. The Conception of Cost Plus Method	53
2. The Terms of Application of Cost Plus Method and the Adjustment for the Comparable Factors Differences	54
3. The Advantages and Disadvantages of Cost Plus Method	56
Section 5 A Brief Comment on the Traditional Transaction Methods	58

Chapter Three Research into the Transfer Pricing Methods of Tangible Goods (2)	
—Transactional Profit Pricing Methods Study	61
Section 1 General Account on the Transactional Profit Pricing Methods of Tangible goods	61

CONTENTS 目 录

Section 2 Profit Split Method	64
1. Concept and Historical Development of Profit Split Method	64
2. Application of Profit Split Method	66
3. The Advantages and Disadvantages of Profit Split Method	71
Section 3 Comparable Profit Method	72
1. Concept and Historical Evolution of Comparable Profit Method	72
2. Application of Comparable Profit Method	74
3. The Advantages and Disadvantages of Comparable Profit Method	77
Section 4 Transactional Net Margin Method	79
1. Concept and Historical Evolution of Transactional Net Margin Method	79
2. Application of Transactional Net Margin Method and the Adjustment for the Comparable Factors Differences	80
3. The Advantages and Disadvantages of Transactional Net Margin Method	82
Section 5 Complement and Comment on the Transactional Profit Pricing Methods	83
<hr/>	
Chapter Four Research into the Transfer Pricing Problems of Nontangible Goods	86
Section 1 Introduction	86

CONTENTS 目 录

Section 2 Transfer Pricing Problems of Intangible Goods	87
1. Concept, Clasfications and Characteristics of Intangible Goods	87
2. American Transfer Pricing Rules of Intangibles Goods	93
3. OECD Transfer Pricing Rules of Intangibles Goods	102
Section 3 Transfer Pricing Problems of Supplying Service	107
1. Provision of Services Within Related Erterprises	107
2. Application of A. L. P.	108
Section 4 Cost Sharing Arrangement	115
1. Concept of Cost Sharing Arrangement	115
2. American Rules of Cost Sharing Agreement	117
3. OECD's Guidelines of Cost Sharing Arrangement	118
Section 5 Transfer Pricing Problems of Electronic Commerce	127
1. The Meaning of Electronic Eommerce and Its Challenge to International Tax Law	127
2. The Challenge of Electronic Commerce to Transfer Pricing Rules	131