

法学论丛



税法研究文库

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总主编 刘剑文

WTO 体制下的

中国税收法治

◆ 刘剑文 主编

北京大学出版社

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司法部“法治建设与法学理论研究”重点资助项目
“北京大学创建世界一流大学计划”资助项目

WTO 体制下的 中国税收法治

主 编 刘剑文

副主编 魏建国

撰稿人 (按撰写章节先后为序)

刘剑文 宋 丽 魏建国 李建人

王 晶 翟继光 史学成

北京大学出版社

图书在版编目(CIP)数据

WTO 体制下的中国税收法治/刘剑文主编. —北京: 北京大学出版社, 2004. 3

(法学论丛. 税法学研究文库)

ISBN 7-301-06907-3

I. W… II. 刘… III. 世界贸易组织-规则-影响-税收管理-法治-研究-中国 IV. D922.220.4

中国版本图书馆 CIP 数据核字(2004)第 002517 号

书 名: WTO 体制下的中国税收法治

著作责任者: 刘剑文 主编

责任编辑: 冯益娜 郑 涛

标准书号: ISBN 7-301-06907-3/D·0826

出版发行: 北京大学出版社

地 址: 北京市海淀区中关村 北京大学校内 100871

网 址: <http://cbs.pku.edu.cn> 电子邮箱: zpup@pup.pku.edu.cn

电 话: 邮购部 62752015 发行部 62750672 编辑部 62752027

排 版 者: 北京高新特打字服务社 51736661

印 刷 者: 北京大学印刷厂

经 销 者: 新华书店

890 毫米×1240 毫米 A5 10.75 印张 310 千字

2004 年 3 月第 1 版 2004 年 3 月第 1 次印刷

定 价: 21.00 元

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总 序

《税法学研究文库》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 and 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做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,绝非某个人或某一单位力所能及。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,中国税法学也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，他们不会承担该文库出版的全部市场风险，更不会按正常标准支付稿费。此举的意义，远远溢出了一中商业架构，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收录对象。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实现。

刘剑文

2004 年元旦于北京大学

财经法研究中心

财税法网(www.cftl.net.cn)

税法网(www.taxlaw.net.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. How-

ever, we should not neglect that neither researching ability nor influential achievements have been satisfactory. They could not match up the corresponding 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 zealously 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 short-sighted 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 Lifang, 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 fundamen-

tally achieved.

Liu Jianwen

On New Years' Day of 2004

In Research Center of Fiscal Law and Economic Law

Peking University

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法学论丛

简介

法学论丛是我社近年推出的大型法学专著系列丛书。该丛书共有以下几个系列：法理学系列、公法系列、比较法系列、宪法行政法系列、民商法系列、刑事法律系列、经济法系列、国际经济法系列、国际金融法系列、法律史系列、国际法系列。该丛书将以开放的形式连续出版下去。每个系列都由该领域的专家学者进行策划、审稿，作者队伍包括法学界老中青几代学者，既有德高望重的学术权威，又有刚刚展露才华的后生晚辈，体现了法学研究的繁荣昌盛、蒸蒸日上。

本丛书本着“人无我有，人有我优”的原则，所选书目基本上反映了该学科最新、最前沿的研究成果，既有重要的理论价值，又具有较强的实践指导意义。希望本丛书的出版能够为法学学术研究的发展增姿添彩，呈现出一道亮丽的风景。

法学论丛

税法学研究文库已出书目

税收程序论

—— 监控征税权运行的法理与立法研究

施正文

● WTO 体制下的中国税收法治

刘剑文

主 编 简 介

刘剑文，男，法学博士，现任北京大学法学院教授、博士生导师、北京大学财经法研究中心主任。兼任中国国际经济贸易仲裁委员会仲裁员。在《中国法学》、《法学研究》、《税务研究》等期刊上发表学术论文110余篇，出版专著、教材等50余部，主持国家社会科学基金项目、国家自然科学基金项目等10余项国家级、部级科研课题。主要研究方向：财税法、经济法、知识产权法。

内 容 简 介

WTO 体制将对中国税收法治的发展带来深远的影响。本书在总结中国税收法治实践面临的若干重大问题的基础上,和 WTO 体制的原则、精神相参照,提出了未来中国税收法治发展的宏观趋向,同时对关涉中国税收法治发展的具体制度也作了较为细致的分析。

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