

公司关联交易的法律规制问题研究

摘要

本文从关联交易的界定入手，指出其特征，并提出对关联交易进行法律规制的必要性，同时，分析了我国关联交易的法律规制现状，并指出我国公司法在关联人范围、违规关联交易的监督惩处、法律法规操作性较弱等问题上，证券法在公司内部信息披露的规定容易造成披露不及时、对违规信息披露的惩罚畸轻，违法成本低、规定的证监会审查方式僵硬等问题上，税法在反避税覆盖面小、纳税人认定标准不合理、规定的税务机关难以互相协作等问题上存在的不足，并针对上述不足，提出相关建议：一是完善关联交易的信息披露制度，二是加强税收监管、完善税收征管制度，三是加强监事会和独立董事制度建设、完善公司治理，四是事后救济的完善，五是加强政府监管、行业自律与社会监督。

关键词：关联交易；信息披露；公司治理；税收监管；股东代表诉讼

ABSTRACT

This article starts with the definition of related party transactions, points out its characteristics, and proposes the necessity of legal regulation of related party transactions. At the same time, it analyzes the current state of the legal regulation of related party transactions in our country, and points out that China's corporate law is in the scope of related parties and violations of related party transactions. In terms of supervision and punishment, and weak laws and regulations, the disclosure of information within the company is prone to problems such as untimely disclosure, punitive penalties for the disclosure of illegal information, low cost of violations, and rigid regulations of the SFC review. As mentioned above, the tax law has some shortcomings in such areas as low anti-avoidance coverage, unreasonable standards for taxpayers, and difficulty for the tax authorities to cooperate with each other. Regarding the above deficiencies, it makes relevant suggestions: First, improve the information disclosure system for connected transactions, second It is to strengthen tax supervision and improve the tax collection and management system. The third is to strengthen the construction of the board of supervisors and independent directors and improve corporate governance. The fourth is to improve the post-relief relief. The fifth is that the industry culture requires the government, industry and society to coordinate and establish a good connected transaction. culture.

Keywords: related party transactions, information disclosure, corporate governance, taxation supervision, shareholder representative litigation.

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