

Quality and Quantity of Sale-leaseback Accounting

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As to form of transaction, the transaction of sale-leaseback is combined with sale transaction and leaseback transaction. The treatment of sale means really sale, therefore there aren't any problems in sale transaction. But there are two problems in leaseback transaction. The first one is concerned with quality, the second one is concerned with quantity. More exactly, the former is concerned with sale-leaseback accounting in Japan, the latter is concerned with sale-leaseback accounting in the U.S.A.

In Japan the characteristics of sale-leaseback accounting are to be separated into sale transaction and leaseback transaction. Therefore sale profits of fixed assets always recognized. However, if leaseback transaction would be noncancelable finance lease, the scale of sold fixed assets would be equal to that of leaseback assets, the transaction of sale-leaseback would be exactly the transaction of cross. There isn't neither buying and selling in the transaction of cross. Therefore the transaction of sale-leaseback means the transaction of finance.

In the U.S.A. the characteristics of sale-leaseback accounting are to be varied sale profits of fixed assets according to the scale of leaseback assets. Major leaseback is deferred treatment of sale profits. Minor leaseback is PL treatment of it. Middle leaseback is mixed treatment.

Comparing sale-leaseback accounting of Japan with that of the U.S.A., sale-leaseback accounting in U.S.A. has to be treated variously corresponding to substance over form.

Summary

The Qualified Lease Transactions in the Corporate Tax Law

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The concept of the financial lease transactions of our country differs from the accounting and the tax law.

Although the definition of the financial lease in both itself is common, it is admitted in the tax law, i.e. the concept of qualified lease transactions on the taxation system is grasped rather narrower than it of the accounting and the part of the difference becomes lease regulation on the substantial tax law.

The National Tax Administration Agency announced qualified lease transactions on the taxation system.

Although the various ones exist in what is called the lease transaction currently performed on the business in our country also including what is admitted in the tax law , generally they are roughly classifiable into operating lease transactions and finance lease transactions.

In this paper, after surveying the change of the regulation of the tax law or tax matter about the finance lease transactions, I would like to clarify the legal nature based on the precedent case, to examine a problem of taxation of the lease transactions.

Summary
About the Application of Disregard of the Corporate Fiction in the Execution of the
Tax Obligation

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The Supreme Court of our country adopts the "disregard of the corporate fiction" beyond the frame of the law interpretation on February 27th, 1969.

The precedents which applied this principle are accumulated and they have been the approximately fixed concept not only the commercial law but also the other law areas recently.

Kobe District Court applied the "disregard of the corporate fiction" to the tax law area on February 21, 1996(so-called "Kinki Express case").

On the other hand, it is just going to divide the argument (adequate or inadequate) from the viewpoint of the legal stability and prediction possibility under "no taxation without representation" that applying this principle easily, without being based on the statutory justification in the tax law area.

In this paper, I would like to investigate also including the significance about the "disregard of the corporate fiction" applied in the execution of a tax obligation to "Kinki Express case."

Summary

Monopoly as the Essential Determination of Corporation.

By Ikuo Miyashita

In the stage of industrial capitalism the corporations developed specially as railway companies. As K.Marx pointed out, if there had not been the system of corporation, the mankind would have had yet no railways. What is the implication of Marx's determination concerning the relationship between the system of corporation and the railway companies? In this paper, taking the examples from the railway companies on the industrial capitalism mainly in England, I try to investigate into that relationship.

Monopolizing the supply of the services of transportation, the companies were able to sell them at monopoly prices, realize monopoly profits and stabilize the dividends more or less apart from the business cycles by applying the double-account system. The companies, therefore, were able to concentrate the idle money capital which accumulated on the hands of aristocratic landowners, and such middle class as the officials, military officers, retired capitalists and widows. The concentration is determined as 'the mobilization of capital' as R.Hilferding formulates in his *Das Finanzkapital*. The mobilized money capital was transformed into the real capital by the hands the managers of railway companies. This capital moves in such formula as $G-W(=P_m + A) \cdots P \cdots G' \cdot G \rightarrow$, and the movement of the real capital is differentiated from the movement of the money capital invested by the share-holders which moves $G \cdots G' \rightarrow$. Common share holders are enough to gain dividends determined by the interest rates then prevailing, and thus they transformed into the investors of fictitious capital as a mere depositor. Although Hilferding misunderstands as if the manager as share-holder would appropriate the founder's gain in the form of money, he does in the form of shares in contrast to his understanding. Thus the manager governs the company, appropriating the average profit as the functioning capitalist in contrast to the money capitalist as common share-holders.

To be brief, why the railway companies were able to monopolize the supply of transportation services is, precisely because they monopolized the railways as the land-of-capital embodied improved land such railways, tunnels, bridges, stations and so forth. The corporation or the limited company can survive by incorporated the monopoly of the land-as-capital.