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硕士学位论文

基于房地产开发企业税务风险管理的研究

Based on the Research of Real Estate Development
Enterprise Tax Risk Management

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摘要

从 2008 年开始至今，无论是国际方面还是国内方面，对税务风险管理的重视度都日益趋升。国际方面，安然公司因税务案件倒闭，金融危机持续蔓延，美国首颁萨班斯法案，开始了对税务风险管理的研究。美国国内收入署（IRS）税收风险报告指出：不是把所有纳税人都作为风险纳税人实施风险应对，而大企业及大额收支的自雇业主都具备高风险纳税人的基本特征，对应对对象筛选的主要方法有风险模型和随机抽验法，在风险应对过程中，纳税人拥有诸如专业代理、会谈录音等权利。而我国无论是政府还是企业，在市场经济的高度发展下，税收法制的不断完善下，都日益重视税务风险管理。国家税务总局对大企业的税收管理趋势是逐步科学化、精细化和专业化。国家税务总局对大企业的税收管理从 20 世纪 50 年代至 80 年代施行的“征、管、查集于一身的专管员模式”逐步发展至于 2008 年 7 月组建大企业税收管理司，并于 2009 年 5 月印发了《大企业税务风险管理指引(试行)》(国税发[2009]90 号)，引导大企业合理控制税务风险，依法履行纳税义务，避免企业因不必要的处罚而导致利益流出。以便在积累了丰富的征管经验的基础上更加专业、规范、完善、多样方式的进行征管。对于企业而言，税收环境的变化，使得企业更加需要重视对税务风险的控制。而房地产企业不但要面临日益趋紧的税收环境，还要面临尤为特殊的经营环境。各省、市、自治区政府一直全力贯彻国家房地产调控政策精神，密集出台房地产调控政策。《国家税务总局关于开展 2012 年税收专项检查工作的通知》(国税发[2012]17 号)将房地产开发业列为税收专项检查指导性检查项目。房地产开发企业所处的经营环境不容乐观，企业面临着前所未有的压力，企业所面临的各种风险也日益增多，企业对风险的重视程度也日益加深，税务风险也就成为重中之重的一项风险。房地产开发企业的涉税事项复杂，涉税种类繁多，因此税务风险对房地产开发企业的经营有着极大的危害性。无论是多缴税还是因为少缴税受处罚，都会直接减少企业的利益，直接影响企业生存发展。

在此背景下，本文采用理论分析与案例分析相结合、定性分析与定量分析相结合、实证分析与规范分析相结合的方法尝试性的研究房地产开发企业的税务风险管理。本文认为企业税务风险管理是一个贯穿于企业整体的连续的动态的过程，并以 COSO 内部控制理论为税务风险管理的理论基础，分七章对房地产开发企业所存在的税务风险进行识别、分析、评估以及建立完善的税务风险管理进行了描述，得出以下的主要结论：房地产开发企业涉税事项复杂，存在一定的整体税务风险和特定税务风险。其税务风险的原因有内、外部两个方面。其中，内部原因主要是指企业的税务管理部门设置不到位、内部控制制度不完善，税务信息沟通不顺畅，税务风险监察力度不够。而外部原因则主要是国家税收政策比较繁复且在变动中不断完善以及税收执法水平有限。而针对 K 房地产开发企业税务风险管理的具体建议则涵盖如下 5 个方面：1、明确企业税务风险管理的目标；2、完善税务风险管理的基础环境；3、识别、分析、评估企业存在的税务风险；4、指出税务风险管理方案制定与实施过程的关键点；5、确保企业税务风险事项沟通顺畅以及建立实施规范有效的监督体制。

关键词: 税务风险； 税务风险管理； 房地产开发企业

ABSTRACT

From 2008 to date, both the international and domestic aspects, to the ever-increasing importance of tax risk management. The international dimension, the collapse of Enron corporation tax case, the financial crisis continued to spread, first awarded the Sarbanes - Oxley Act of the United States, began research on tax risk management. U.S. internal revenue service (IRS) tax risk report notes: not all taxpayers as the taxpayer to implement risk response, and large enterprises and large income of self-employed owners possess high risk taxpayers' basic characteristics, main methods of dealing with object selection risk model and random sample method, in the process of risk coping, taxpayers have rights such as professional agent talks on the tape. Both the government and the enterprises in China, at the height of the market economy development, under the continuous improvement of the legal system of taxation, increased emphasis on tax risk management. State administration of taxation for tax management of big companies, scientific trend is gradually refinement and specialization of the state administration of taxation on tax management of big companies, from the 80 s and 1950 s of the collection tube check special mode of gradual development as to form a big business in July 2008 tax management, and in May 2009 issued by the big enterprise tax risk management guidelines (trial) (Guo Shui Fa [2009] no. 90), and guide the reasonable big companies control the tax risk, fulfill its obligations to pay taxes in accordance with the law, avoid enterprise interests outflow caused by unnecessary penalty. The State Administration of Taxation on 2012 - year tax work of the Special Inspection Circular (Internal Revenue [2012]17 number) guidelines listed real estate companies as tax special inspection of checked items. So that on the basis of accumulated rich experience in collection more diverse professional norms perfect way carries on the collection and management for the enterprise, tax changes in the environment, makes the enterprise

must be more emphasis on tax risk control and the real estate enterprises not only face a tightening of environmental tax, still faces a particular environment of business. And real estate companies in the business environment are particularly special. Domestic provinces, municipalities and autonomous regions the Government has been fully implementing the spirit of the national policy on regulation of real estate, real estate regulatory policies came thick and fast. The Department of real estate enterprise's business environment has been not optimistic, companies face unprecedented pressure, enterprise risks facing the growing importance of enterprise risk deepening, including tax risk. Real estate tax - related matters complicated, wide range of tax - related, hence the tax risk management of real estate enterprises have a great deal of harm. Whether higher taxes or because less tax penalties will directly reduce business interests, affecting the survival and development of enterprises.

In this context, this article uses the combination of theoretical analysis and case study, combining qualitative and quantitative analysis, empirical analysis and specification analysis method of combining Tentative Study on tax risk management in real estate development enterprise. Tax risk management, this paper argues that enterprise is an enterprise throughout the whole of continuous dynamic process, and using the COSO internal control theory as the foundation of tax risk management theory, chapter seven to real estate development enterprise existing tax risk analysis and evaluation for identification and establishing perfect tax risk management to the description, the following main conclusions: Complex real estate development enterprise tax - related matters, there is a risk of overall tax and tax risk - specific. The tax risks for both internal and external reasons. Among them, the internal taxes are due mainly to the enterprise management settings are not in place, the internal control system is inadequate, and tax information communication smoother, insufficient tax risk monitoring. External causes are mainly complex and often changes over the state's tax policies as well as the level of tax enforcement is limited. Specific recommendations for real estate development enterprise tax risk management covers

the following 5 areas : 1, specific business tax risk management objectives ; 2, perfecting the Tax Foundation of risk management environment ; 3, Identification, analysis, evaluation of enterprise tax risk ; 4, pointed out that tax risk management program development and implementation of the key points of the process ; 5, ensure that the corporate tax risk issues communication smoother and establish practices for effective monitoring system

Keywords: tax risks; tax risk management; real estate development enterprise

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