

The Analysis on the Problems and Countermeasures of Judicial Accounting Identification

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Abstract: There are many problems in the current appraisal work of the country's judicial accounting, mainly the lack of sufficient identification evidence and the lack of clarification of its appraisal work. When a case involves financial facts, it will reveal many conclusions of the appraisal, and even some conclusions contrary to the facts, making it difficult for the court to hear the case fairly. In order to solve the problems in the identification time, the article analyzes and proposes a powerful countermeasure to solve the problem, in order to standardize the behavior of judicial accounting in the identification work and provide an important reference.

1. Introduction

Judicial accounting is mainly engaged in the identification work. In order to clarify the truth of the case, the employer is hired and assigned to identify and judge the professional issues related to financial accounting in the litigation process of the incident, and then is put forward the opinions of the appraisal. The conclusions of the appraisal are directly used as evidence in the litigation process and play a key role in the prosecution and trial of the judiciary. Especially in the mid-eighties of the twentieth century, the judicial accounting set up by the procuratorial organs has a professional history of 30 years. The identification team is growing and indirectly enhancing its position in the litigation. The development of judicial accounting in the identification work [1]. However, the identification work has many problems in practice, which affects its effectiveness in litigation.

2. Brief introduction to judicial accounting identification

The concept of judicial accounting appraisal was introduced into China from the Soviet Union as early as 1954. It refers to the fact that in the trial of litigation cases, in order to ascertain the case, judicial accounting appraisers use judicial accounting expertise to identify and judge the accounting facts involved in the case and issue an appraisal [1]. It can be seen from this concept that judicial accounting identification is an accounting activity involving judicial procedures, mainly to solve the financial matters involved, and obtain the identification results as evidence of litigation, to achieve the purpose of finding out the facts of accounting in litigation cases. Compared with ordinary accounting activities, judicial accounting identification has the following distinctive features [1]:

First, it has a distinct legal nature. Judicial accounting appraisal is closely related to judicial activities and is an accounting activity that strictly follows legal procedures.

Second, judicial accounting identification is determined by the judicial authorities.

Third, the object of judicial accounting identification is specific, that is, the accounting issues involved in the lawsuit.

Fourth, judicial accounting identification activities have caused corresponding legal consequences. The appraiser must bear legal responsibility for the conclusion of the appraisal.

There are some misunderstandings in judicial accounting in judicial practice. For example, some people think, "Judicial accounting" is "judicial accounting appraisal"; "judicial accounting" is only a matter of judicial accounting professional and technical personnel; some people think that if the case is broken, it is a good investigation work, the case cannot be broken, and it is judicial accounting technology. These understandings are not only wrong, one-sided, but also harmful in judicial practice.

In fact, as a professional category in judicial technology, judicial accounting refers to the judicial authorities in the process of handling cases involving the use of accounting expertise to discover, collect, test and review and conduct accounting analysis. In order to clarify the economic responsibility of the case and the practical subjects that confirm the facts of the case, including the contents of “judicial accounting inspection” and “judicial accounting identification”. Therefore, judicial accounting simply refers to the accounting inspection and accounting identification activities conducted by the judicial organs [2]. In fact, in a specific case, it is often not necessary to conduct judicial accounting appraisal, but it is necessary to conduct judicial accounting checks, which is often referred to as auditing and checking. In the investigation of economic crime cases, judicial accounting inspection is an indispensable and effective means of investigation and evidence collection and technical means. Its purpose is to discover criminal clues, collect evidence of crime, and provide inspection for judicial accounting identification.

As the basic content of judicial accounting, there is a certain difference between judicial accounting inspection and judicial accounting identification: Article 101 of the Criminal Procedure Law stipulates that the subject of judicial examination is the investigator, that is to say, the judicial accountant can conduct the case. Inspection, but cannot become the main body of judicial accounting inspection, judicial accounting only plays a technical assistance role. Article 119 of the Criminal Procedure Law is the basis for judicial accounting appraisal [2]. Its main body is the appraisers. Law carries out the appraisal activities independently after being appointed. The legal basis and implementation of the two are significantly different. The understanding that “judicial accounting” is “judicial accounting identification” is one-sided. It not only weakens the effectiveness of judicial accounting in practice, but also confuses the subject of judicial accounting inspection and judicial accounting identification, resulting in judicial practice. It has formed a misconception that the case cannot be broken or the qualitative not allowed to attribute to the judicial accounting technicians.

3. The characteristics of judicial accounting identification

1) As a major component of economic justice, judicial accounting identification has significant legal characteristics and is a selective litigation certification activity.

2) Judicial accounting appraisal is a litigation activity undertaken by the judiciary to hire and select professionals [3]. As a litigation participant, the appraiser is required to independently testify in accordance with scientific and technical regulations.

3) Judicial accounting appraisal object is case-related accounting data. In other words, accounting vouchers, accounts, statements, etc. involved in the trial of the economic crimes.

4) Judicial accounting appraisal activities will have legal consequences. As an important basis for the handling of judicial organs, the judicial accounting appraisal as a litigation evidence has a strong legal effect, and it is the opinion of accounting and auditing professionals on the accounting professional problems in the process of handling cases [3]. For example, if the judicial conclusions of the judicial accounting appraisal staff are untrue, it is an illegal act and will be subject to legal sanctions.

4. Problems in the practice of judicial accounting identification

With the current Chinese procuratorate handling relevant cases, the judicial accounting appraisal work has an irreplaceable significance for the relevant procuratorate for the extensive use of judicial accounting appraisal. When the procuratorate conducts relevant investigations and treatments on certain criminal cases, only the judicial and accounting personnel can scientifically and accurately identify the relevant materials, so that the relevant procurators can timely and effectively report the important accounting information involved in the case [2]. The acquisition and collection of the evidence in order to make the evidence of the relevant case clearer and more organized, so that it can provide relevant evidence for legally relevant cases, so that the relevant persons can be sanctioned by law.

4.1 The subject of judicial accounting identification is not legal.

Judicial accounting lacks legitimacy in the practice of appraisal, which mainly reflected the appraisal by the relevant subject who has not identified the actual decision-making authority, in accordance with the principle of appraisal, legal provisions, etc., in its criminal related litigation, only the judiciary have the right to decide on the identification [3]. In some criminal proceedings, some judicial personnel have proposed identification, re-identification of relevant requirements, applications, etc. for victims and criminal suspects, and cannot correctly exercise the final decision-making power, but the suspects themselves and their relatives who commit crimes. The defender sought the appraiser to identify it, illegally transferred the decision-making power of the appraisal, and made the appraisal of the person who lacked the appraisal decision.

4.2 Judicial accounting appraisal requirements are not specific and unreasonable.

In the practice of identification of judicial accounting, the appraisers must be identified according to some of the appraisal requirements put forward by the inspectors [4]. However, some of the appraisal requirements submitted by the inspectors are not specific enough and lack rationality, which makes the identification of judicial accounting. It is difficult for workers to carry out relevant identification activities. The problem is mainly manifested in: the inspection personnel are in the knowledge of sending inspections, based on their lack of knowledge in the identification work of judicial accounting, usually do not know how to make relevant requirements for identification, and even some of the identification requirements are too general, so lack of clarity. For example, it is required to carry out the appraisal of judicial accounting for a certain case, and the appraisal requirements are more general; in addition, some of the appraisal requirements are not within the law, and among the some appraisal requirements, mainly require the appraisal of judicial accounting.

4.3 The scope of accounting identification is not clear.

The scope of judicial accounting is mainly based on the circumstances under which judicial accounting is required for identification. Under certain circumstances, judicial accounting is not required for identification. Based on the current judicial accounting in the identification practice, the unified scope of the unified technology and the standard enterprise is not used [4]. Therefore, under what circumstances, it is necessary to carry out the identification of judicial accounting. Under certain circumstances, it is not enough to identify it without judicial accounting. Clearly, the situation has been formed, “the identification of the work has not been done, and the identification of the work has not been done.” Judicial accounting is in the current appraisal practice, and it is controlled by the scope of judicial accounting. On the one hand, it is a rigid regulation.

5. The solution to the problem of judicial accounting identification

5.1 Ensure the legality of the subject of judicial accounting identification.

According to the principle of identification, in criminal related lawsuits, only when the judicial organs have the right to decide and identify, the suspects, relatives, etc. of the crimes, and the application for re-identification of the relevant rights, you can decide and identify your rights [5]. Therefore, in the practice of judicial accounting, its judicial workers must abide by relevant laws and regulations to identify, and some applications related to the identification of suspects and relatives of crimes must be carefully examined. It is necessary to identify and re-identify some cases. The department or agency shall implement the identification and re-appraisal according to law. In terms of self-investigation and self-examination, especially in the investigation period, if the judicial accounting appraisers act as scouts to participate in relevant activities, the case investigation subject lacks legitimacy, which requires other judicial accounting related identification work.

5.2 The identification requirements are legal and clear.

Based on the lack of knowledge of the judicial appraisal related identification personnel, some of the accredited appraisers and judicial accounting appraisers require their inspectors to submit a

request for explicit appraisal when they accept the case. If the person in charge of the inspection does not submit a request for explicit identification, the appraisal worker of the judicial accountant shall, after listening to the introduction of the case and reading the case file, jointly correct the request for the appropriate appraisal with the relevant personnel for inspection, and make the appraisal request [5]. It can be more specific and clear, and it is beneficial to the appraisers of judicial accounting to control and identify. For the requirements for the identification of the part of the judicial accounting, such as: the identification of the judicial accounting staff to identify whether the corruption, misappropriation of public funds identification requirements, the judicial accounting appraisers must be refused according to law.

5.3 Identification scope clear.

Since the identification of judicial accounting is not clear enough in scope, it indirectly increases the difficulty of identifying cases [6]. What kind of problems can be applied to the identification of judicial accounting, and which part of the problem judicial accounting cannot identify? This situation should be formulated this morning. The criteria for the relevant technology of express identification identify the conditions under which the financial accounting related issues need to be authenticated by judicial accounting. The relevant standards for judicial accounting identification technology are currently under the circumstances of which the judicial accounting should be controlled. The scope of appraisal shall be clarified according to the actual situation of the case, other evidences, etc., combined with the technical characteristics of the judicial accounting. The overall idea is designed to apply for the identification of judicial accounting in advance when it comes to the professional issues related to financial accounting in the case.

5.4 Establish a theoretical system of judicial accounting identification.

Following the theoretical system of financial accounting, from the perspective of judicial accounting identification objectives and identification hypothesis, the rational construction of the judicial accounting identification theory system carried out [7]. First, judicial accounting identification objectives and identification assumptions. The main problem is the judicial accounting identification target for whom, how and what services to pass. Judicial accounting appraisal hypothesis is the basic premise of reasonable inference of judicial accounting appraisal, including financial objectivity hypothesis, rational person hypothesis, and professional appraisal hypothesis. Through the rational establishment of the judicial accounting identification theory system, the above content must be fully considered and involved in the theoretical system, the only way to achieve the purpose of standardizing the theoretical system.

5.5 Establish a unified technical standard for judicial accounting identification.

With the continuous deepening of the reform of the judicial accounting appraisal system of China's procuratorial organs, the status of judicial accounting appraisal work has gradually improved [7]. In the process of establishing a unified judicial accounting technical standard, the judicial and financial department should be established to conduct the establishment of the judicial accountant association to serve the judicial and financial departments, and to manage and coordinate the national judicial and accounting work. In the criteria for the identification results, "universal recognition standards" and "substantial proof standards" can be introduced to provide a reliable basis for improving the accuracy of judicial accounting identification conclusions.

5.6 Implement the accountability system for judicial accounting appraisers.

At present, the responsible system and liquidity of the appraisers are not the most influential factors for the judicial accountant's responsibility system [8]. Therefore, we also need to start from these two aspects and implement the accountability system of judicial accounting appraisers.

First, the unsound identification responsibility system is mainly embodied in the falsification of the identification behavior from the aspect of legal liability, but no corresponding punishment provisions have been made to deal with the wrong identification behavior [7]. In view of this kind of situation, the relevant departments should focus on the system of accountability of judicial

accounting appraisers, and make corresponding punishment decisions to constrain the corresponding degree of misidentification behavior, and through the system of investigation of misidentification behaviors, it is also beneficial to avoid identification. Excessive subjective randomness occurs, which can also enhance the sense of responsibility of judicial accounting appraisers and improve the quality of appraisal conclusions.

Second, in view of the fact that the liquidity is large and the judicial accounting appraisers' liability system cannot be implemented, it is necessary to make corresponding adjustments in the registration management [6].

5.7 Standardize the identification process.

By standardizing the judicial accounting appraisal procedures of the procuratorate, it can provide scientific basis for various types of appraisal work and provide objectivity for the appraisal results [8]. In the implementation of judicial accounting appraisal, the appraisal operation procedures must be improved. The audit report standard can be used as a reference basis for the content of judicial documents, and the rights and obligations of relevant departments are clearly pointed out to ensure the impartiality of the appraisal results.

6. Conclusion

The analysis of the problems and solutions of judicial accounting in the practice of identification must pay attention to the serious harm and impact that the problem may have on the work. Therefore, it is imperative to improve the appraisal work of judicial accounting, aiming at ensuring the legitimacy of the appraisal subject, making the appraisal requirements legal and clear, and at the same time clarifying the scope of the appraisal, and improving the overall quality of the appraisers as a whole, highlighting the integrity and scientific nature of judicial accounting in the practice of identification enables the court to achieve a fair trial goal.

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