5

- 推进国内贸易流通体制改革与发展
- 城市功能拓展区域文化产业园发展路径研究
- 在阿根廷生产性投资问题研究

上海市优秀学报 2014

上海商學院學報

JOURNAL OF SHANGHAI BUSINESS SCHOOL

中文电子期刊服务(台湾Airiti Library)全文收录
中国学术期刊综合评价数据库统计刊源期刊
中国人民大学《复印资料》重点收录期刊
万方数据库——数字化期刊群收录期刊
中国核心期刊（遴选）数据库全文收录
中国期刊全文数据库全文收录期刊
中文科技期刊数据库全文收录



第15卷 • 总第77期

【海外视点】

在阿根廷生产性投资问题研究

Darío Rajmilovich[1] & Jorge Tisocco[2]
（布宜诺斯艾利斯大学，阿根廷 布宜诺斯艾利斯 999071）

在阿根廷进行直接生产性投资，投资者必须准备一份详尽的项目计划，以评估各种可能出现的情况，并测算经风险调节后的投资回报率，同时考虑运营、财务、会计、法律及税务等诸多方面的问题。

选择法律上适当的投资形式，对于获取最佳投资回报至关重要，其中涉及投资成本和收益，以及如何规避可能降低或影响预期利润率的一些税务或法律问题。

这里我们指的是那些与投资相关的可预测因素，而不是指与企业本身或投资目的国相关的因素。

阿根廷法律和税务制度允许以合伙、信托及使用其他公司形式来形成长期的生产性企业。从税务的角度，主要区别在于直接税（如所得税及对资产和已分配利润征税）。

就合伙而言，这里重点介绍合资企业（即企业之间临时合伙）。这一形式能让独立公司的资本聚集在一起而无需另外组织一个公司，参与者仅须对参与的部分阶段负有限责任。这一合伙形式的缺点是其临时性，合伙方参与多少项目，就必须签订多少合同。另一个优势是参与方虽然要纳税，但可以免交所得税（税率为 35%）及个人资产税（其最低假定所得税的税率为 1%，净财富税税率为 0，至 12 月 31 日资产净值的税率为 5%）。此外，在合伙人将利润分配给其他合伙人或股东时，收益提取无须缴纳股息税（相当于分配利润的 10%）。

至于信托形式，阿根廷法律允许金融信托和非金融信托。金融信托可通过公开或非公开销售发行有价证券（包括债务证券、参与证书或资本证书）。非金融信托不发行有价证券，但受益人依据信托合同规定，拥有个人持有的信托部分。

金融信托的收入或红利一般须纳税，除非其信托证书通过公开销售发行（如在当地证券市场）。该种情况下，股息（参与证书）及利息可获免税（债务证券）。

这种形式的一个优点是其灵活性。它不受企业组织法的制约，其权利和义务均由企业自主决定。但这一形式有一个相当大的缺陷，那就是强制性存款，其数量高达投资额的 30%，一年内不得提取，而且没有任何利息。公开发行的金融信托证券不在此列。

至于其他企业形式，可供非居民投资者选择的类型有股份有限公司（S. A.）. 私营责任有限公司（S. R. L.）. 及设立分公司或者分支机构。这些不同类别公司的税制非常相似，均须缴纳所得税、替代性最低税、个人资产税及红利税。

从企业角度来看，股份有限公司（S. A.）具有更多灵活性，有权出售股份、增资、发行股票及办理并购或重组。

私营责任有限公司（S. R. L.）和分公司就管理而言较为简单，但在增加股东、增资、联合经营和扩大业务方面受较严格的限制。

确定哪一种法律形式必须从公司的经营模式

收稿日期：2014 - 10 - 17

作者简介：1. Darío Rajmilovich，布宜诺斯艾利斯大学教授，研究方向：税收理论与实践；2. Jorge Tisocco，布宜诺斯艾利斯大学教授，国际财政协会会员，研究方向：税收理论与实践。

本文的英文翻译者：Rosario Crescimbeni，英语文学专业教师，UMSA 认证翻译；中文翻译者：Yang K'e-Hua，元智大学文学院汉语教授。

出发，与公司结构和公司战略保持一致，这样才能在可利用的法律框架内，优化财政和金融资源，提升投资回报率。

在阿根廷做投资，税务规划至为重要。对条约进行分析也很关键，可避免两国之间或阿根廷与第三国之间现行的双重征税，第三国或许有控股或导管公司[①]驻扎在阿根廷，其功能为降低红利、利息的股息税或母公司或第三国提供的服务转让税。

目前中阿之间虽无协议，但中国已经和众多与阿根廷签有协议的国家定理协议。按照美国最高法院 1935 年关于 Gregory vs. Helvering 案的判决，毋庸置疑，在法律许可范围内，纳税人可少缴甚至不缴他该缴纳的税金。

① 导管公司（conduit company）系指涉及在两个或以上国家设立子公司，并利用与有关国家所签订的税收协定，寻求低税负和减税方法的公司。——译注

How to Invest in Productive Businesses to be Developed in Argentina

At the time of making a direct productive investment in Argentina, the investor must draw up a detailed project plan that will estimate different hypothetical scenarios in order to measure the return on the invested capital adjusted to risk, while taking into account operational, financial, accounting, legal and tax aspects.

The choice of the legal form to structure the investment is essential to achieve the best investment profile in terms of cost and income and to avoid tax or legal inefficiencies that might reduce or compromise the estimated margin of profit.

We refer to those predictable elements that are necessary to develop an investment and not those related to the business itself or to the target country where the investment will be made.

The tax and legal system provides partnerships, trusts and other companies to make a long term productive business. From the tax viewpoint, the principal differences fall on direct taxes (on income tax, tax on assets or distributed profits).

Among these partnerships we may highlight the joint ventures (temporary partnerships of businesses) that enable the capital of independent companies to come together without establishing a business organization, and which have a limited liability over the portion that he has contributed. The disadvantage of this partnership is its temporary characteristic that forces parties to make as many contracts as projects they decide to develop. Another advantage is that joint ventures are not subject to income tax (income tax whose rate is 35%) nor personal assets (as tax on alternative minimum income tax whose rate is 1% applicable on business assets and on net wealth tax whose rate is 0, 5% applicable on net asset value as of December 31st.), although partners are subject to tax. Furthermore, gains withdrawal will not pay tax on dividends (which is equivalent to 10% of the distributed profits) which would be applied when the partner distributes profits to other partners or shareholders.

Among other fiduciary forms, the Argentine law provides financial and non financial trusts. Financial trusts are those that issue securities (debt bonds or participation or capital certificate) which can be issued by the system of public or private offering. Non financial trusts are those

which do not issue securities but the beneficiaries hold a personal participation over a portion of the trust as stated in the trust agreement.

Trusts in general are taxed as income and as dividends, except for those financial trusts whose certificates are issued under the public offering system (in local securities markets). In that case, dividends (participation certificates) as well as their interests are tax exempt (debt certificates).

An advantage of this structure is its versatility as it is not subject to the Business Organization Act (Law 19, 550), and it is governed by the autonomy of the will as a source of rights and obligations. A considerable disadvantage of this structure is that a mandatory deposit earning no interest has to be made and it will amount to 30% of the invested sum. This deposit cannot be withdrawn for the period of one year. An exception to this is the financial trusts with certificates issued by public offering.

As for other companies, the legal types available for non-resident investors are the Corporation (Sociedad Anónima-SA), the Private Company Limited by Shares (Sociedad de Responsabilidad Limitada-SRL) and the Branch. The tax systems of these companies are very similar as taxes are paid on income, on the alternative minimum income tax, on personal assets and on dividends.

From the company viewpoint, the S. A. has flexibility certificates to sell participation (shares), to increase capital, to issue in the stock exchange or markets, to make transactions of M&A or reorganizations.

The SRL and the Branch are simpler in terms of management but stricter to incorporate partners, increase capital, associate or expand their operations.

The legal form must be determined in terms of the business model and should be aligned to the company structure and the corporate strategy to optimize the fiscal and financial aspects within a legal scheme that economies exploit today to increase the return on investment.

Tax planning is key at the time of organizing an investment in Argentina. It is also crucial to analyze the treaties to avoid double taxation in force between both countries or between Argentina and a third country where a holding or conduit company might be located in order to reduce the tax on dividends, interest, royalties or the provision of services.

At present, China does not have an agreement with Argentina but has made 99 agreements with countries that have agreements with Argentina. " The legal right of a taxpayer to decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means which the law permits, cannot be doubted. " (Supreme Court of the United States in the "Gregory v. Helvering" Case, 1935).

(校译/李德荣　责任编辑/陈　彬)

■ 中文电子期刊服务（台湾 Airiti Library）全文收录
■ 中国学术期刊综合评价数据库统计刊源期刊
■ 中国人民大学《复印资料》重点收录期刊
■ 万方数据库——数字化期刊群收录期刊
■ 中国核心期刊（遴选）数据库全文收录
■ 中国期刊全文数据库全文收录期刊
■ 中文科技期刊数据库全文收录

上海商學院學報

Journal of Shanghai Business School

●上海市优秀学报●

2014 年第 5 期
第 15 卷(总第 77 期)

上海商學院學報
Journal of Shanghai Business School

2014 年第 5 期
(第 15 卷总第 77 期)
《上海商学院学报》
2014 年 10 月 25 日出版

编 委 会 主 任: 朱国宏
编委会副主任: 冯伟国
编 委 会 委 员: (以姓氏笔画为序)

卜 军　马新宇　王云玺
方有林　王胜桥　白 晨
曲文波　乔 刚　刘 斌
刘建民　吕继红　宋文官
陈志强　张建华　吴晓伟
杨荣昌　杨谊青　陈 敏
陈强璋　周 勇　侯立玉
胡巧多　姜 红　强晓云
黄建昌　彭才年　傅敬民
董惠良　楼文高

目 录

本刊特稿

1 推进国内贸易流通体制改革与发展 …… 吴 频

热点论坛

4 城市功能拓展区域文化产业园发展路径研究 …… 甄 杰
10 我国创意产业园区集群化发展对策研究…… 殷亚丽 任 丹
15 区域产业政策趋同动因探究
——基于地方政府效用选择的视角 …… 王 征
20 企业孵化器模式研究 …… 刘香吉 戴伟娟

海外视点

26 在阿根廷生产性投资问题研究
…… Darío Rajmilovich & Jorge Tisocco
29 货币政策、资产价格泡沫和金融稳定 …… 陈丽娟

前沿观察

32 互联网金融发展研究 …… 邵玉君
39 上海法治水平对金融发展的影响分析 …… 邵明波
44 论贸易救济中行业协会反竞争行为的正当性标准 …… 王敏志
52 转让定价审计研究…… 陈 涛 叶莉娜

操作实务

59 不确定法律概念的个案裁量

——《工伤保险条例》相关条文之展开…… 周　游　李诗茵

66 善意取得制度下保险人赔付的困扰与应对

——从一起保险案例说起 …… 李伟群

对策研究

73 上海名人故居游客满意度分析

——以上海鲁迅故居为例 …… 黄　林　张建华

81 政治文化视域下的大国崛起 …… 张惠玲

88 要素投入、政策支持、农地制度改革与农业增长

——基于黑龙江省和山东省的比较分析 …… 曲洪建

95 长三角地区制造业全要素生产率变动分析

——基于非参数 Malmquist 指数方法…… 薛以硕　张继良

沪商书院

102 高校博物馆建设实践探索与思考

——以拟筹建“上海商业博物馆”为例…… 陈　敏　马豫婷

108 上海商业博物馆建设脉络分析 …… 杨济诗

114 关于行业博物馆建设的思考和上海商业博物馆筹建的几点建议

…… 曹济南

上海商學院學報

Journal of Shanghai Business School

题字　汪道涵

主编　冯伟国

编辑部副主任　陈　彬(主持工作)

编审　任　天

译审　李德荣

责任编辑　韩狄明

陈　彬

特约编辑　史煦光

实习编辑　马秋萍

任愿达

主管　上海市教育委员会

主办　上海商学院

出版、发行　《上海商学院学报》编辑部

中国标准连续出版物号　ISSN 1673-324X CN 31-1957/F

发行范围　国内外公开发行

地址　上海市中山西路 2271 号

邮编　200235

电话　(021)64386593

传真　(021)64386593

网址　www.sbs.edu.cn/dept/xbzz

电子信箱　xbofsbs@163.com

出版日期　2014 年 10 月 25 日

开户银行　工行徐汇支行吴中路分理处

账号　022980-14407051

户名　上海商学院

印刷　上海图宇印刷有限公司

定价　8.00 元

CONTENTS

No. 5. Vol. 15(General 77) Oct. 2014

Thoughts of Propelling Institutional Reform and Development of Domestic Trade Circulation ····· *WU Pin* (1)

Development Path of Cultural Industry Park in the Urban Function Expanding Area ····· *ZHEN Jie* (4)

Researches on China's Creative Industry Cluster Development ····· *YIN Yali & REN Dan* (10)

Policy Convergence in Regional Industrial Development ····· *WANG Zheng* (15)

Insight into the Law of the Development of Incubator, Select the Appropriate Incubation Model ····· *LIU Xiangji & DAI Weijuan* (20)

How to Invest in Productive Businesses to be Developed in Argentina ····· *Darío Rajmilovich & Jorge Tisocco* (26)

Monetary Policy, Asset Prices Bubbles and Financial Stability ····· *CHEN Lijuan* (29)

The Research on Internet Finance Development ····· *SHAO Yujun* (32)

Effect of the Rule of Law on Financial Development in Shanghai ····· *SHAO Mingbo* (39)

Legitimacy Standard of Trade Association's Anti-Competitive Behaviors in Trade Remedy ····· *WANG Minzhi* (44)

A Study on Issues of Transfer Pricing Auditing ····· *CHEN Tao & YE Lina* (52)

Judicial Discretion of Uncertain Legal Concepts: Proceeding from Injury Insurance Regulations ····· *ZHOU You & LI Shiyin* (59)

The Insurer's Indecision to Compensate Under Bona Fide Purchaser Rule: A Case Study ····· *LI Weiqun* (66)

A Tourist Satisfaction Analysis with Former Residences of Celebrities in Shanghai ····· *HUANG Lin & ZHANG Jianhua* (73)

Rise of Great Powers from the Perspective of Political Culture ····· *ZHANG Huiling* (81)

Factor Inputs, Policy Support, Agricultural Land System Reform and Agricultural Growth-Based on a Comparative Analysis of Heilongjiang Province and Shandong Province ····· *QU Hongjian* (88)

TFP Growth of Manufacturing Industries in the Yangtze River Delta Region: A Study Based on Non-parametric Malmquist Index ····· *XUE Yishuo & ZHANG Jiliang* (95)

Ideas on Building a University Museum ····· *CHEN Min & MA Yuting* (102)

Thoughts about the Construction of "Shanghai Commerce Museum" ····· *YANG Jishi* (108)

Thoughts on the Industry Museums and Suggestions on the Construction of Shanghai Commerce Museum ····· *CAO Jinan* (114)