

# 政治与法律

POLITICAL SCIENCE AND LAW



5 2022

政治与法律

二〇二二年第五期

上海社会科学院法学研究所主办

上海社会科学院法学研究所主办

# 政治与法律 (月刊)

2022年第5期(总第324期)

## 主题研讨 ——我国税法理论的完善和发展

- 税收立法要素探析  
——以印花税法立法为例……………张守文 / 2
- 税法兜底条款设计与适用的方法改进……………黄家强 / 14
- 应税事实认定的权义构造……………叶 姗 / 29

## 经济刑法

- “非法获取内幕信息人”的理据辨正与司法廓清……………李振林 / 44
- 注册制改革背景下欺诈发行证券罪的教义学再建构……………张忆然 / 62

## 专 论

- “准合同”概念之外延考  
——对我国《民法典》第985条的理论与实证分析……………李永军 / 80
- 论大数据证据质证的形式化及其实质化路径……………程 龙 / 96

## 争鸣园地

- 论行政公益诉讼审理制度的完善……………杨 寅 / 115
- 论环境诉讼中“技术改造”责任承担方式的规范化……………梁晓敏 / 128

## 实务研究

- 二次创作短视频合理使用规则的适用与完善……………董 彪 / 141
- 论我国反恐法律体系的整体完善  
——从新疆、浙江等四地《反恐怖主义法》实施办法展开分析……………罗海敏 / 150

## 史 论

- 民国时期高等法院统一预算制度实践及其启示  
——以江苏高等法院为中心……………陈宇超 / 162

# POLITICAL SCIENCE AND LAW

(Monthly)

Edited by the Institute of Law  
Shanghai Academy of Social Sciences

No. 5, 2022 (Total No. 324)  
May. 5

---

- 2 Probe into the Elements of Tax Legislation  
——Taking the Stamp Duty Legislation as an Example ..... ZHANG Shouwen
- 14 Methodological Improvement of the Design and Application of Catch-all Provisions in Tax Laws ..... HUANG Jiaqiang
- 29 Construction of Powers and Obligations in the Determination of Taxable Facts ..... YE Shan
- 44 Theoretical Argument and Judicial Clarification of "Persons with Illegal Access to Inside Information" ..... LI Zhenlin
- 62 Doctrinal Reconstruction of the Crime of Fraudulent Issuance of Securities under the Background  
of Registration System Reform ..... ZHANG Yiran
- 80 On the Outer Limit of the Concept of "Quasi-contract" ..... LI Yongjun
- 96 On the Formalization of Cross-check of Big-data Evidences and the Path of Its Substantiation ..... CHENG Long
- 115 On the Improvement of Trial System in Administrative Public-Interest Litigation ..... YANG Yin
- 128 The Standardization of the Responsibility Method of "Technical Transformation" in Environmental Litigation  
..... LIANG Xiaomin
- 141 On the Application and Improvement of Fair-Use Rule in Secondary Creation in the mode of Short Video  
..... DONG Biao
- 150 On the Overall Improvement of China's Anti-Terrorism Legal System  
——Analysis from the Perspective of Measures of Xinjiang and Other Three Places for Implementing Anti-Terrorism Law  
..... LUO Haimin
- 162 The Practice of the Unified Budget System of the High Courts in the Period of the Republic of China and Its Lessons  
——Centered on the Jiangsu High Court ..... CHEN Yuchao