Research on Tax Risks and Countermeasures of Private Equity Funds

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Keywords: Private equity funds; Tax risks; Response measures

Abstract: The main source of income for private equity investment funds comes from the price surplus after the sale of equity. Due to the fact that private equity funds are not publicly disclosed, there is no need to disclose relevant information about the invested enterprises. Although the return on investment is high, the investment risk is also very high. This article further explores the tax risks and countermeasures of private equity funds. Develop unified standards with floating space for each link and step in the operation process of private equity funds. When disputes arise due to trading issues, clear legal provisions can be followed to avoid the phenomenon of mutual blame. Effective internal management is a delicate issue in the management of private equity funds. If poorly managed, it is highly likely to cause serious economic losses. If there is a gap and mutual distrust between investors and managers, it may prevent the development of private equity funds and ultimately lead to bankruptcy. By analyzing private equity funds in China, improving the system of private equity funds and regulating their operation is of great value for the development of private equity funds and the development of the Chinese economy.

1. Introduction

Private equity investment funds mainly raise funds from qualified investors through non-public fundraising to invest in the equity of some non-listed companies. Under the premise of the terms of the fund partnership agreement, some private equity investment funds will also participate in the private placement of some listed companies. The main income of private equity investment funds comes from the price surplus after the sale of shares. Because private equity funds are not open to the public, there is no need to disclose the relevant information of the invested enterprises. Although the return on income is high, its investment risk is also very large [1]. Private equity funds have a strict access system, and there are very strict restrictions on the quantity and the amount of financial assets, so the market access is also very strict. Once risks occur, it is difficult to transfer them out by other means. After many funds invest in the invested enterprises, the operating conditions of the invested enterprises are not as ideal as expected, which leads to many private equity investment funds having to lower the initial investment valuation again and again [2]. Therefore, it is very necessary for us to take various control measures to comprehensively control the investment risks of private equity investment funds scientifically, reasonably and effectively. In this regard, this paper further explores the tax risks and countermeasures of private equity funds. Through the analysis of China's private equity funds, perfecting China's private equity fund system and standardizing its operation are of great value to the development of China's private equity funds and the development of China's economy [3]. When the actual amount paid is less than the loss value, it can only be made up after the fund makes a profit, and it cannot be deducted. If it is implemented, it can greatly reduce the financial risks of partners, and at the same time give investors confidence in investing, so as to achieve the purpose of matching taxable and tax affordability and ensure the principle of tax fairness [4]. This paper holds that in the case of stock+debt transaction, the price of equity transfer should conform to the market pricing principle as far as possible, rather than arbitrary pricing; In the case of share repurchase transactions, the pricing of the repurchase price should not be completely calculated by the loan interest rate. According to the investment negotiation, a certain amount can be floated up and down, and the above tax risks can be dealt with by changing the pricing principle [5].

2. Tax Risk Analysis of Private Equity Fund

2.1. Risks of tax authorities' collection and management

At present, the legal forms of private equity funds in China mainly include company system, partnership system and contract system, as shown in Figure 1.

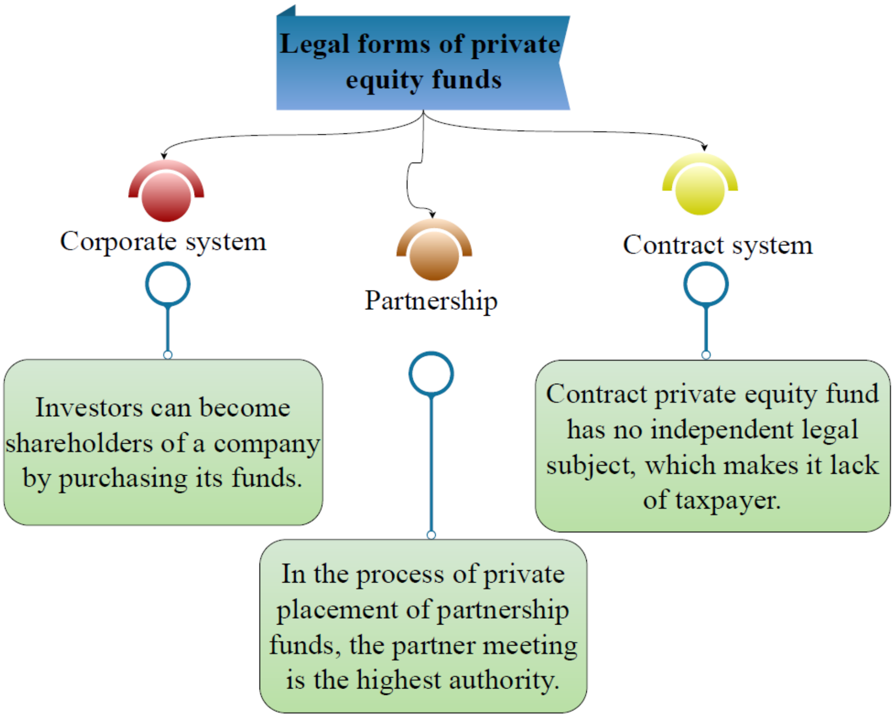

Figure 1 Legal forms of private equity funds

At present, although the withholding of personal income tax has been clearly stipulated in the tax law, there is still a lack of supervision over investors, because corporate partners are not obliged to withhold and pay. Therefore, if the registered place of the investment fund is different from the location of the institution, it is easy to have the problem of tax loss and tax runaway [6]. Financial managers must abandon the traditional mode of financial accounting, pay attention to the full use of artificial intelligence technology, and change various information resources more, which will provide an important basis for the performance evaluation of various businesses in the decision support level. Contractual private equity funds raise funds in the form of signing fund contracts. Fund managers, fund custodians and fund holders establish their mutual rights and obligations according to contract contracts. Contractual private equity funds have no independent legal subject, which is the biggest difference between contractual funds and corporate funds and partnership funds [7].

For professional accounting agencies, it is necessary to pay attention to the effective application of the business finance integration service model, and achieve the effective integration of high-quality financial management ideas and business services. In order to better attract fund investment, the management of many invested enterprises often take some immoral measures to exaggerate the progressiveness of their technology and the perfection of their business operation mode. Some invested enterprises even take the risk to falsify some financial data, deliberately creating an excellent operating situation and huge future development space for the invested enterprises [8-9]. Due to the lack of detailed registration of investors' investment returns, dividends, and equity transfer information, the tax authorities were unable to obtain relevant information in a timely manner, and could only rely on the taxpayer's compliance level. Moreover, the amount involved in this process was significant, greatly hindering the tax entry time [10].

2.2. Risks of implementing tax policies

Corporate private equity funds are composed of shareholders with common investment goals, and have the highest authority shareholder meeting, executive board of directors, and supervisory board. By allocating and balancing the power of these three major organs, the company will make every effort to serve the interests of shareholders. Due to the lack of clear regulations from relevant departments regarding the payment of stamp duty by partners in limited partnership enterprises, there is a significant risk of inconsistent enforcement in some regions. Therefore, in the context of the intelligent era, professional accounting agency workers must pay attention to effective prediction of external environmental changes, achieve effective control of risk issues, and avoid the occurrence of risk problems in enterprises. After completing the investment, many risks often emerge one after another. If the post investment management personnel of the fund cannot continuously track, investigate and research the invested projects based on the actual situation in a timely manner, do not analyze the impact of current policies on the overall investment, and ignore the changes in the overall competition pattern between industries, it will be difficult to scientifically and reasonably estimate and analyze the industry market situation, and cannot timely correct the direction of the investment enterprise. Effective internal management is a delicate issue in the management of private equity funds. If poorly managed, it is highly likely to cause serious economic losses. If there is a gap and mutual distrust between investors and managers, it may prevent the development of private equity funds and ultimately lead to bankruptcy. Professional accounting agencies should pay special attention to risk control procedures and minimize risk issues as much as possible. Secondly, when creating financial statements online, the usual basis is the balance sheet and the company's income statement. However, there are also differences in accounting subjects in different situations, so the accuracy of filling in accounting subjects will be greatly affected.

3. Solutions to the problems of private equity funds in China at present

3.1. Establish a strict supervision system

Establish a rigorous and unified supervision system. And set up an independent regulatory agency to supervise the operation process of private equity funds. When there are problems, there are special regulatory agencies to send professionals to coordinate and deal with them. Secondly, it is necessary to strictly supervise the qualifications of employees, and the situation of "refusing to work without a license" appears. It is necessary to ensure that every staff member has the ability and qualification to solve problems when risks occur, and regularly train staff to improve their professional ability. Private equity investment funds need to establish a sound investment risk control system and process, and set up investment decision-making committees and management committees in the fund. The management committee is responsible for the examination and approval of investment projects, and the fund investment decision-making committee is responsible for examining and approving whether to invest in projects on the premise of fully understanding and analyzing investment risks. Strengthen the audit of financial institutions operating private equity funds, review the qualifications before allowing private equity funds to operate, and allow those who pass the qualifications to operate. At the same time, it should be investigated regularly, and internal personnel of the company should report the operation of private equity funds on time.

3.2. Improve the relevant legal system

At present, the main legal forms of private equity funds in China include company system, partnership system and contract system. Because the contract system has no independent taxpayer, its tax risks are not typical. Therefore, this paper focuses on the tax risks existing in the legal forms of private equity funds in company system and partnership system and the corresponding countermeasures as shown in Figure 2.

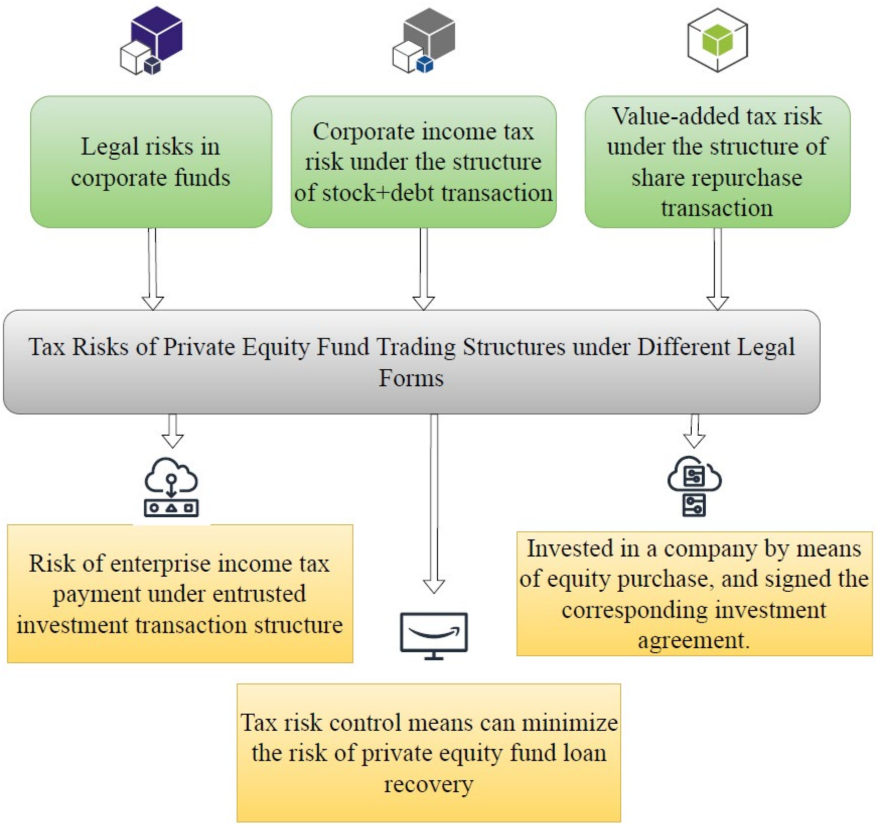

Figure 2 Tax risks of private equity fund transaction structure under different legal forms

In recent years, interest free loan transactions have been increasingly applied to invested enterprises. The original intention of this type of transaction structure is to improve the safety of fund investments and reduce investment risks. However, the integration of interest free loan transactions inevitably means that the generated investment dividends have tax risks. When private equity funds adopt an interest free borrowing trading structure, they do not charge any interest on the investment amount of the invested company, so theoretically, they do not need to pay value-added tax. Therefore, by formulating and uniformly promulgating laws related to private equity funds, the legal status of private equity funds in China is recognized. And establish unified standards with floating space for each link and step in the operation process of private equity funds. When disputes arise due to trading issues, clear legal provisions can be followed to handle them, avoiding the phenomenon of mutual blame. Establish a risk control system and relevant implementation rules, as well as a risk evaluation system. Hire third-party intermediaries annually to evaluate the compliance and risk control of the fund and issue inspection reports.

3.3. Strengthen the review efforts in the process of financing and investment

In the process of financing, private equity funds can broaden financing channels and cooperate with banks to obtain a more stable source of funds. At the same time, the amount of funds and the ability to resist risks of investors should be clearly defined. At the same time, when investing, it is also necessary to fully consider the demands of the management of the invested enterprise in terms of equity incentives, and reasonably and legally reflect the value and contribution of the management team to the invested enterprise in terms of equity incentives. In order to avoid the above risks legally, it is necessary to strictly abide by the principle that substance is greater than form. When the final repurchase price of equity exceeds the cost, the excess part will be taxed according to interest; Secondly, in the context of a good investment environment, we will make initial equity investment in the invested enterprise, explain the initial dividend yield according to the cost of funds, and collect dividends from the invested enterprise every year, so as to ensure the investment income of the fund. Before investors buy private equity funds, they need to conduct property evaluation, and they can only participate in private equity fund investment after meeting the requirements. Before investing, they should sign relevant agreements. Once problems occur, they should be handled according to the agreement of both parties to avoid the phenomenon of shirking responsibility and "running away".

4. Conclusions

Overall, enterprises need to understand relevant tax risks in order to effectively address future tax risks. When using private equity funds for market investment, there are corresponding tax risks due to different types of private equity fund taxpayers and tax laws and regulations. Therefore, in the actual work process, it is necessary to interpret relevant laws and regulations based on the legal form of private equity funds. At present, private equity funds in China are still in the initial stage of development. Although they have made continuous progress in the process of development, there are still some problems and many risks. How to effectively handle these risks, improve investment security, and enhance market activity is currently a key issue that the industry needs to consider. Therefore, adopting practical and feasible risk control measures can maximize the risk avoidance of private equity investment funds, and ensure that the invested enterprises can carry out risk control, financial management, and operational management in multiple aspects under a high-quality system. By actively seeking solutions and implementing actions in legal, regulatory, review efforts, information disclosure, and access standards, we aim to promote the healthy and orderly development of private equity funds in China. And in order to effectively and reasonably utilize private partnership funds, it is necessary to take a more scientific approach based on the actual situation to avoid tax risks and ensure the healthy development of the enterprise.

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