

## ОРИГИНАЛЬНАЯ СТАТЬЯ

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## Экономическое содержание и правовая форма: современные подходы к анализу противоречий

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## АННОТАЦИЯ

Экономическое содержание и правовая форма являются важными факторами, определяющими характер отражаемой в отчетности информации. В целях финансового и налогового учета принцип «приоритет экономического содержания над правовой формой» (от англ. substance over form) применяется в каждой из информационных систем по своему, что позволяет в полной мере удовлетворять пользователей по части данных, необходимых как для принятия экономических решений, так и проведения фискальных процедур. **Объектами** исследования являются финансовое и налоговое направления, а также соответствующие им подходы к анализу противоречий между «содержанием» и «формой». Автором представлены ключевые аспекты, отражающие современные взгляды научного сообщества, а также дискуссионные вопросы, касающиеся применения упомянутого выше принципа. Выводы многих экспертов позволяют утверждать, что по данной теме до сих пор существуют разногласия, определяющие актуальность изучения концепций, которые объясняют взаимодействие «сущности» и «формы» как в финансовом, так и налоговом учете. Результаты работы предназначены для специалистов в сфере бухгалтерского учета, аудита и налогового права. **Ключевые слова:** экономическое содержание; правовая форма; сущность; важнее формы; бухгалтерский учет; налоговый учет; теории корпоративного управления; текстуализм; связанные стороны; налоговое право.

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## ORIGINAL PAPER

## Economic Substance and Legal Form: Modern Approaches to Contradictions' Analysis

A.A. Aksent'ev

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## ABSTRACT

Economic substance and legal form are important factors that determine the nature of the information reflected in the reporting. The specialists apply the principle of "substance over form" in each of the information systems in its own way for financial and tax accounting. This makes it possible to fully satisfy users in terms of the data necessary both for making economic decisions and for conducting fiscal procedures. The objects of the study are the financial and tax areas, as well as their respective approaches to the analysis of contradictions between substance and form. The author presents key aspects that reflect the modern views of the scientific community, as well as describes the controversial issues regarding the application of this principality. The conclusions of many experts allow us to assert that there are still disagreements on this subject. They determine the relevance of studying the concepts that explain the interaction of substance and forms in both financial and tax accounting. The results of the work are intended for specialists in the field of accounting, auditing and tax law.

**Keywords:** economic substance; legal form; substance over form; accounting; tax accounting; theories of corporate governance; textualism; related parties; tax law

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# The Legal Aspect Of Swaps An Analysis Based On Economic Substance

**AW Chickering**



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The George Washington journal of international law and econo , 1997

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Os Instrumentos Financeiros José Engrácia Antunes, 2014-07-01 Os Instrumentos Financeiros constituem o novo conceito chave do Direito do Mercado de Capitais do s c XXI tanto em Portugal como no estrangeiro O presente estudo tem por objeto a an lise da no o caracter sticas fundamentais e regime jur dico deste novel instituto juscomercial bem assim como dos seus principais tipos a saber os valores mobili rios v g a es obriga es unidades de participa o warrants aut nomos direitos destac veis certificados etc os derivados v g futuros op es swaps derivados de cr dito contratos diferenciais forwards caps floors collars etc e os instrumentos do mercado monet rio instrumentos interbanc rios certificados de aforro obriga es de caixa bilhetes de tesouro papel comercial etc

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novos e a crise financeira tem vindo a ser apontada por muitos analistas como consequência de uma engenharia financeira imbuída de atos pouco zelosos e meticulosos pouco ou nada delimitados técnica e juridicamente. Os agentes dominantes apresentam e descrevem estas técnicas inovadoras como formas de cobertura e redução de riscos inerentes às operações financeiras. todavia o sistema financeiro necessita de confiança para funcionar em plenas condições. A presente obra versa sobre esta técnica e pretende contribuir para o conhecimento e enquadramento legal destes instrumentos financeiros mais concretamente sobre os contratos swap e em especial sobre o credit default swap

Os Instrumentos Financeiros - 4a Edição José Engrácia Antunes, 2021-01-01 Os Instrumentos Financeiros são o novo conceito chave do Direito do Mercado de Capitais do século XXI tanto em Portugal como no estrangeiro. O presente estudo tem por objeto a análise da natureza característica e regime legal deste novel instituto juscomercial bem assim como das suas principais espécies a saber os instrumentos mobiliários vulgarmente obrigatórios de participação warrants autônomos direitos de preferência etc os instrumentos derivados vulgarmente swaps derivados de crédito contratos diferenciais forwards etc os instrumentos monetários instrumentos interbancários certificados de aforro certificados de depósito bilhetes de tesouro papel comercial etc e ainda outros instrumentos financeiros maxime licenças de emissão

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economia de mercado tendo se assistido nos últimos decénios a uma verdadeira explosão de novas figuras contratuais consagradas em leis mercantis ou sedimentadas na prática dos negócios. A presente obra tem por objecto o estudo exaustivo dos Contratos Comerciais em geral incluindo as questões relativas sua negociação, forma e conteúdo e efeitos transmissivos e modificativos e extintivos e em especial através da análise das grandes famílias contratuais incluindo os contratos mercantis clássicos os contratos de cooperação empresarial os contratos de distribuição comercial os contratos bancários os contratos financeiros o contrato de seguro e o contrato de transporte.

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