

ОРИГИНАЛЬНАЯ СТАТЬЯ



DOI: 10.26794/2408-9303-2022-9-4-75-86
 УДК 657(045)
 ИСН 2411-9449, ИД 9, к.34

Экономическое содержание и правовая форма: современные подходы к анализу противоречий

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АНОНТАЦИЯ

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 финансовые и налоговые 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; важное; формы; бухгалтерский учет; налоговый учет; теории корпоративного управления; текстуализм; связанные стороны; налоговое право

Для цитирования: Аксентьев А.А. Экономическое содержание и правовая форма: современные подходы к анализу противоречий. Учет. Анализ. Аудит = Accounting. Analysis. Auditing. 2022;9(4):75-86. DOI: 10.26794/2408-9303-2022-9-4-75-86

ORIGINAL PAPER

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

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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 form 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

For citation: Aksent'ev A.A. Economic substance and legal form: Modern approaches to contradictions' analysis. Uchet. Analiz. Audit = Accounting. Analysis. Auditing. 2022;9(4):75-86. (In Russ.). DOI: 10.26794/2408-9303-2022-9-4-75-86

The Legal Aspect Of Swaps An Analysis Based On Economic Substance

Mauro Megliani

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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 meticolosos pouco ou nada delimitados tica e juridicamente Os agentes dominantes apresentam e descrevem estas técnicas inovadoras como formas de cobertura e redução de riscos inerentes à operações financeiras todavia o sistema financeiro necessita de confiança para funcionar em plenas condições A presente obra versa sobre esta temática 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 norma característica e regime legal deste novo instituto juscommercial bem assim como das suas principais espécies a saber os instrumentos mobiliários vogais que obriga as unidades de participação warrants autorizam direitos destacáveis etc os instrumentos derivados vogais futuros opções 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 licenciadas de emissão [Transaksi Derivatif](#) Dr. Diana Ediana Rae,2013-02-13 Transaksi derivatif keuangan yang kita kenal dewasa ini pada dasarnya dapat membantu perluasan kegiatan usaha peningkatan eficiência dan penurunan biaya untuk pengelolaan risiko usaha bahkan telah dapat membantu membuka kegiatan kegiatan baru yang sebelumnya dianggap terlalu berisiko tanpa adanya transaksi derivatif tersebut Transaksi derivatif telah memungkinkan alokasi risiko secara lebih efisien dengan cara mengalihkan risiko kepada pihak pihak yang lebih mampu dan mau menangani Kasus kasus kerugian besar yang diakibatkan oleh transaksi derivatif sebagaimana terjadi dalam kasus Baring UBS NatWest Bank Metallgesellschaft Procter Gamble Enron serta di Indonesia seperti yang terjadi pada Bank Duta Bank Niaga dan Credit Lyonnais telah memudarkan citra transaksi derivatif sebagai instrumen keuangan yang bermanfaat Saat ini masyarakat Indonesia lebih melihat transaksi derivatif sebagai transaksi spekulatif dan bahkan manipulatif Transaksi derivatif sebenarnya dimaksudkan untuk melakukan pengelolaan risiko hedging bukan sebagai kegiatan spekulatif Dari berbagai risiko yang terkait dengan transaksi derivatif yaitu risiko pasar risiko kredit risiko operasional dan risiko hukum Risiko hukum transaksi derivatif merupakan risiko yang paling besar mengingat perangkat hukum yang mengatur transaksi derivatif masih kurang memadai serta banyak pihak yang terlibat dalam penanganan kasus transaksi derivatif masih kurang memahami sifat dan risiko nature and risks dari transaksi derivatif itu sendiri Kajian mengenai aspek hukum transaksi derivatif ini membawa pada persoalan regulasi ekonomi yang lebih besar yang dihadapi oleh Indonesia dalam era globalisasi serta integrasi ekonomi dan keuangan internasional Indonesia harus menemukan format regulasi ekonomi yang competitif untuk dapat memanfaatkan proses globalisasi dan integrasi ekonomi yang terus berlangsung dewasa ini [Direito dos Contratos Comerciais](#) José Engrácia Antunes,2023-08-04 Os contratos são a sangue da vida comercial e das empresas numa

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 à sua negociação, forma e conteúdo, efeitos transmissos, modificação e extinção 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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Table of Contents The Legal Aspect Of Swaps An Analysis Based On Economic Substance

1. Understanding the eBook The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - The Rise of Digital Reading The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Advantages of eBooks Over Traditional Books
2. Identifying The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - User-Friendly Interface
4. Exploring eBook Recommendations from The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Personalized Recommendations
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance User Reviews and Ratings
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance and Bestseller Lists
5. Accessing The Legal Aspect Of Swaps An Analysis Based On Economic Substance Free and Paid eBooks
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance Public Domain eBooks
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance eBook Subscription Services
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance Budget-Friendly Options
6. Navigating The Legal Aspect Of Swaps An Analysis Based On Economic Substance eBook Formats
 - ePUB, PDF, MOBI, and More
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance Compatibility with Devices
 - The Legal Aspect Of Swaps An Analysis Based On Economic Substance Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Highlighting and Note-Taking The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Interactive Elements The Legal Aspect Of Swaps An Analysis Based On Economic Substance

8. Staying Engaged with The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers The Legal Aspect Of Swaps An Analysis Based On Economic Substance
9. Balancing eBooks and Physical Books The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection The Legal Aspect Of Swaps An Analysis Based On Economic Substance
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Setting Reading Goals The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Fact-Checking eBook Content of The Legal Aspect Of Swaps An Analysis Based On Economic Substance
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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