

由比較法觀點論會計師之 責任限制

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本文旨在參酌關於會計師責任上限之重要立法例，重新檢討我國立法並提供修正建議。會計師於資本市場具有重要地位，但如何平衡其責任並使會計師責任保險具有可能性，誠為難題。為了使會計師免於責任風險之憂，立法例上有給予會計師責任上限之保護者，我國法亦有類似規定。然而，我國關於會計師責任上限之規範，是否有其必要與妥適性，容有討論空間。近來澳洲等重要立法例已經有不同發展，更值得吾人注意。另外，責任限制或有助於會計師責任風險之確認，而有助推行會計師責任保險。因此，本文以法定責任限制之比較法分析為核心，兼論約定限制以及與責任保險之連動關係，再據此重新檢討我國立法之當否，並提出立法建議，以供參酌。

關鍵字：會計師民事責任、法定責任限制、約定責任限制、會計師公會、會計師責任保險。

「政策與管理意涵」

鑑於會計師可能之訴訟風險，多有主張賦予會計師最高責任限制之保護者。本文旨在參酌重要立法例，檢討我國立法並提供修正建議。本文主張現行法並非妥適，且在欠缺實證證據下，目前應無賦予會計師法定責任上限之必要。本文有助於重新省思會計師責任限制之必要性與妥適性，對於會計師責任體系之建構應有相當之意義。

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A Comparative Law Study on Caps on Accountant's Liability

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This study aims to remodel Taiwan's regulations about caps on accountant's liability and provides legislative suggestions, after analyzing the relevant laws of important jurisdictions. Accountants have the important role in capital market and it is a controversial issue to balance their liability and improve account's liability insurance. To save accountant's concern about liability risk, many jurisdictions, including Taiwan, have the regulations about caps on accountant's liability. However, there is still room to examine its necessity and appropriateness. Recently, regulations in many jurisdictions such as Australia already have different developments and this issue is worthy of more attentions. In addition, caps on accountant's liability may be helpful to recognize liability risk of accountants and then improve the development of account's liability insurance. Thus, this study focuses on the comparative analysis of caps on accountant's liability, then also addressing the issues about contractual limitations on accountant's liability and its relation with accountant's liability insurance. Finally, this study will examine the Taiwan's laws and provide legislative suggestions.

Key Words: accountant's liability, statutory caps on accountant's liability, contractual limitations on accountant's liability, institute of certified public accountant, accountant's liability insurance.

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