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dividend irrelevance theory

residual of investment policy 22

homemade dividend 23

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22 See Merton H. Miller & Franco Modigliani, (1961).

34 The Journal of Business 411

23 See Daniel R. Fischel,

67 Virginia Law Review 699, 702 (1981).

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Business Judgment Rule

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Sydell v. Zidell

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30 See Edward P. Welch, Andrew J. Turezyn & Robert S. Saunders, _____, Aspen Publishers, 2008, p. 105.

31 See *In Re Kemp & Beatley, Inc.*, 473 N. E. 2d 1173, 1178 (N.Y. 1984).

32 See *Ingle v. Glamore Motor Sales, Inc.*, 535 N. E. 2d 1311, 1319 (N.Y. 1989).

33 See *Unocal Corp. v. Mesa Petroleum, Inc.*, 493 A. 2d 946 (Del 1985).

34 See Henry G. Manne, _____, 62 *Columbia Law Review* 399, 422 (1962).

35 See *Zidell v. Zidell, Inc.*, 560 P. 2d 1086, 1090 (Or. 1977).



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expert testimony

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36 See Weinberger UOP, Inc., 457 A. 2d 701 (Del. 1983).

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<http://www.scio.gov.cn/xwfbh/qyxwfbh/>

oppression

expectation

gross abuse

security

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1984

In Re Kemp & Beatley Inc.

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38 See In Re Kemp & Beatley, Inc., 473 N. E. 2d 1173, 1179 (N.Y. 1984).

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Naito v. Naito

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Naito v. Naito

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44 See Naito v. Naito, 35 P. 3d 1068 (Or. Ct. App. 2001).

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LOU Qiuran LI Jiayang

Abstract: whether and to what extent would the court intervene into the matter of corporate profit distribution is of vital importance in closely held corporations. Compared to publicly held corporations, profit distribution is often the only way for minority shareholders to get their capital return. Refusing to declare dividend or only declaring small amount of dividend is an ordinary means for controlling shareholders to oppress minority ones. Taking it into consideration, the fifth judicial interpretation of Chinese Corporate Law allows courts to make judgment forcing the accused corporations to distribute certain amount of profit. However, in real judicial practice, majority courts tend to narrow the definition of abusive use of shareholder's right. Although, that kind of practice could be explained through dividend irrelevance theory, business judgment rule and computing puzzle, these explanations could hardly be justified in the context of closely held corporations. The future judicial practice should be more positive. Not only the definition of abusive use of shareholder's right should be based on reasonable expectation standard, the intermediate scrutiny standard, discounted cash flow model and expert testimony be brought in, measures should be taken to prevent strike suits and promote the finality of dispute resolving.

Keywords: Profit Distribution; Abusive Use of Shareholder's Right; Positive Judicial Intervention; Intermediate Scrutiny Standard; Reasonable Expectation