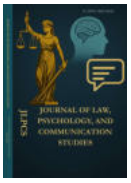
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A Study of Equity Inheritance and Shareholder Qualification Issues Under Chinese Corporate Law

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ABSTRACT

This study examines legal challenges in equity inheritance and shareholder qualification under Chinese company law. As limited liability companies dominate and founders age, unresolved succession issues emerge. The research clarifies the conceptual distinction between equity (a blend of property and identity rights) and shareholder qualification (a mechanism for rights execution). Using normative legal analysis, comparative law, and case studies from China, the UK, US, Germany, and France, the study identifies systemic flaws—especially judicial inconsistencies and vague company articles. It proposes a dual-track inheritance system: internal effectiveness at death and external effectiveness upon registration. This balances inheritance protection with transactional security. The paper further advocates shifting from equity transfer theory to equity succession theory, emphasizing that inheritance is a legal fact triggered by death, not a consensual act. Standardizing company articles is also urged to better accommodate inheritance, reduce disputes, and offer procedural clarity. The findings advance theoretical discourse and offer practical reforms for courts, businesses, and families.

1. Introduction

1.1. Research Background

China's market economy has developed rapidly over recent decades. Limited liability companies have become one of the most important forms of business organization. Enterprise founders are aging or passing away successively. The inheritance of equity held by natural person shareholders after their death has become a pressing issue (Li, 2022).

Whether heirs can lawfully acquire shareholder qualifications represents a high-frequency dispute focal point in judicial practice. Gao (2017) emphasizes that shareholder qualification determination has become increasingly complex in inheritance contexts. Empirical research shows that equity inheritance-related cases have continued to rise since 2005. This trend reflects the urgent need to address this issue in both legislation and practice.

The current Company Law (2023 Amendment) Article 90 provides some guidance. It stipulates that after the death of a natural person shareholder, their lawful heirs may inherit their shareholder qualification in accordance with law. There is an exception where the articles of association provide otherwise (Company Law of the People's Republic of China, 2023). However, this provision is expressed briefly. It fails to clarify specific inheritance conditions, procedures, and the boundaries of effectiveness for articles of association restrictions. This lack of clarity has led to inconsistent standards in judicial application.

Equity possesses dual attributes of both personal rights and property rights. Related inheritance issues involve not only the estate inheritance system in the Civil Code. They also involve

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institutional tensions under Company Law regarding company membership qualification determination. Additional concerns include the scope of corporate autonomy and the maintenance of shareholder structure stability.

Clarifying the legal logic of shareholder qualification inheritance and equity inheritance has become essential. Constructing a systematic, operable rule system represents an important issue for the improvement of current corporate law theory and institutions. Chang and Ho (2024) note that inheritance law reforms must address these complex intersections between family law and corporate governance.

1.2. Literature Review

Academic exploration of equity inheritance and shareholder qualification issues has emerged from several research perspectives. These different approaches reflect the complexity of the legal issues involved and the need for comprehensive analysis.

Rights Attribute Research: Some scholars start from the rights structure perspective. They believe that equity is a comprehensive civil right. It possesses both inheritable property right content and governance right content with identity identification functions. Kraakman and Armour (2017) emphasize that equity represents a complex bundle of rights. It combines economic interests with governance participation.

Other scholars emphasize the personal nature of shareholder qualification. They argue it should not be regarded as general property within the scope of inheritance. This perspective sparks controversy over whether personal rights can be inherited. Hu (2016) provides detailed analysis of how shareholder qualification differs from pure property rights in transfer and inheritance contexts.

Institutional Coordination Research: Some studies point out specific problems with Article 90 of the Company Law. This article grants company articles of association the power to restrict inheritance. However, it fails to clarify the boundaries of such restrictions. This situation potentially leads companies to exclude lawful heirs under the pretext of articles of association.

Such practices cause conflicts between inheritance right protection and corporate autonomy. Han (2019) analyzes how these conflicts manifest in judicial practice and their impact on both corporate governance and family wealth transfer. The research highlights the need for clearer institutional frameworks to balance competing interests.

Comparative Law Research: Existing research has examined equity inheritance systems in multiple countries. These include the UK, US, Germany, Japan and other nations (Siems, 2018). Germany's Limited Liability Company Law Article 15 explicitly stipulates that shares may be transferred and inherited. The law simultaneously allows companies to attach other conditions to share transfers.

These overseas institutional experiences provide diversified path choices for China's institutional improvement. They offer guidance in several areas. These include balancing inheritance right protection and corporate autonomy. They also address procedural review and identity confirmation mechanisms (Cottier, 2014).

Research Gaps: Existing literature has two notable limitations. While theoretical research is abundant, systematic empirical case analysis remains insufficient. This makes it difficult to reflect actual judicial application challenges. Additionally, institutional borrowing from foreign systems tends to be general rather than specific. It lacks thorough assessment of localization feasibility.

1.3. Problem Statement

Article 90 of the Company Law establishes the inheritable principle of limited liability company shareholder qualification. However, several outstanding problems still exist in specific application.

Conceptual Confusion: Article 90 clearly stipulates inheritance provisions for natural person shareholders. In practice, conceptual misuse and logical confusion often appear. Academia and practice generally confuse shareholder qualification inheritance and equity inheritance. They fail to accurately distinguish their rights nature, acquisition paths, and legal consequences. This causes confusion in theoretical foundations and institutional design. Li and Luo (2019) note that registration procedures often become confused with substantive rights acquisition. This contributes to conceptual uncertainty.

Lack of Supporting Systems: The law fails to clarify substantial conditions and procedural requirements needed for inheritance. The effectiveness boundaries of articles restrictions remain unclear. Courts have inconsistent adjudication standards in similar cases. This seriously damages heir rights protection and corporate governance stability. Cahn and Donald (2018) observe similar challenges in other jurisdictions where inheritance law intersects with company law. They emphasize the need for clear procedural frameworks to guide both courts and practitioners.

Institutional Gaps: The law lacks institutional arrangements to address special circumstances. Examples include situations when the number of heirs exceeds articles stipulated limits. Other cases involve no inheritance scenarios or when articles conflict. The law has not established clear handling mechanisms for these situations. These institutional gaps urgently need to be filled.

1.4. Research Questions

This study focuses on the above difficulties. It proposes the following core questions:

Does Article 90 of the Company Law's provision on shareholder qualification inheritance have sufficient legal foundation? How should its legal relationship with equity inheritance be clarified? This question examines the theoretical basis for the current legal framework and seeks to establish clearer conceptual distinctions.

To what extent can company articles of association legally exclude or restrict heirs from acquiring shareholder qualification? How should the boundaries of its restrictive effectiveness be determined? This addresses the practical tension between corporate autonomy and inheritance rights.

Should shareholder qualification be acquired through changing from equity transfer mode to equity succession mode? What are the differences between the two in legal attributes and acquisition procedures? This question explores whether current legal frameworks adequately address the unique characteristics of inheritance.

What substantial and formal conditions should heirs meet to acquire shareholder qualification? When should shareholder qualification inheritance begin? When facing special circumstances such as multiple heirs or no inheritance, how

should companies handle them? This addresses practical implementation challenges in inheritance situations.

1.5. Research Objectives

This study aims to achieve several key objectives. These will advance both theoretical understanding and practical application.

The study seeks to clarify the conceptual distinction between shareholder qualification and equity. It will analyze the applicable foundation of Article 90 of the Company Law in institutional design. This conceptual clarification will provide a foundation for more precise legal analysis and application.

The research will explore the jurisprudential boundaries of company articles restrictions on inheritance. It will assess their impact on inheritance right protection. This boundary analysis will help establish clearer guidelines for both companies drafting articles and courts reviewing their validity.

The study aims to promote the establishment of an institutional model based on equity succession theory. This will reduce adjudication differences and improve efficiency in practice. The institutional development objective recognizes the need for systematic reform rather than piecemeal adjustments.

Finally, the research will combine foreign legislative experience to propose applicable institutional reform paths under China's legal context. These reform recommendations will be grounded in comparative analysis. They will be tailored to China's specific legal and social context.

1.6. Research Methods

This study comprehensively adopts several methodological approaches to ensure robust analysis and practical applicability.

Legal normative analysis forms the foundation of this research. The study will systematically analyze the Company Law, Civil Code, and related judicial interpretations. This method allows for detailed examination of current legal frameworks and identification of gaps or inconsistencies.

Case study method will be employed to select typical judgments for analysis. This approach will reveal judicial logical differences and practical application challenges. The case analysis will provide empirical evidence to support theoretical arguments and identify patterns in judicial reasoning.

Comparative law research method will examine normative paths for equity inheritance systems in various legal systems. These include English, American, German, French, Japanese and other legal frameworks (Siems, 2018). This approach will identify successful institutional models and assess their potential applicability to China's context.

Normative construction method will combine theoretical analysis with empirical research results. This will enable the study to propose institutional improvement suggestions suitable for China's context. The method ensures that recommendations are both theoretically sound and practically feasible.

1.7. Research Significance

This topic has important significance for both theory and practice. The research contributes to multiple areas of legal scholarship and practical application.

From a theoretical perspective, this research helps clarify the conceptual structure of equity and shareholder qualification. It responds to the application difficulties of Article 90 of the Company Law. The study contributes to corporate law theory development. It provides clearer analytical frameworks for understanding inheritance issues in corporate contexts.

The research addresses fundamental questions about the nature of corporate membership and property rights. It examines how traditional inheritance law principles apply to modern corporate structures. This theoretical work will inform future legal development and academic research.

From a practical perspective, this research helps promote unified judicial adjudication standards. It optimizes company articles formulation rules. The study balances corporate governance stability with inheritance right protection. These practical benefits will improve legal certainty for both families and businesses.

The research can provide institutional support for family governance and succession arrangements of small and medium enterprises. This enhances the predictability and compliance of limited company share inheritance. Given the importance of family businesses in China's economy, these practical improvements have significant economic implications.

2. Current institutional status of equity inheritance and shareholder qualification issues

2.1. Theoretical Examination

Before examining the current institutional status, this study must establish clear definitions of key terms. Equity represents a comprehensive civil right that combines both property rights and identity rights. Shareholders enjoy this right based on their investment in the company. The right includes voting rights, dividend rights, and other shareholder privileges (Kraakman & Armour, 2017).

Shareholder qualification represents the legal status or membership position that identifies an individual as a company shareholder. This qualification serves as the prerequisite for exercising equity rights (Gao, 2017).

Equity inheritance involves the transfer of property interests in company shares through inheritance law provisions. Shareholder qualification inheritance refers to the acquisition of company membership status by heirs following the death of natural person shareholders. These processes often occur simultaneously but involve different legal mechanisms (Chang & Ho, 2024).

According to Article 1122 of the Inheritance Part of the Civil Code, equity as the deceased's legal property may be inherited in accordance with law (Civil Code of the People's Republic of China, 2021). Article 90 of the Company Law (2023 Amendment) clearly stipulates that "shareholder qualification may be inherited in accordance with law" (Company Law of the People's Republic of China, 2023).

This institutional design reflects legislative respect for the principle of corporate autonomy. It grants companies autonomous decision-making power over shareholder structure and membership changes. From the perspective of rights protection, this provision creates significant problems. It fails to clarify the scope and reasonable boundaries of articles restrictions on heirs acquiring shareholder qualification. This makes the provision prone to abuse for excluding lawful heirs. Such situations cause conflicts between governance and rights.

2.2. Judicial Status

According to data from the China Judgements Online (2024), as of August 2024, there have been nearly 80,000 judicial documents with the keywords “equity” and “inheritance,” of which 96.68% are civil cases, and the majority, 50.74%, have occurred in the past five years. This indicates that issues related to the inheritance of shareholder qualifications have garnered widespread attention in China’s judicial practice. Specifically, 62.3% of the cases were triggered by the absence of a will or flaws in the will, while 34.7% were caused by disputes over restrictive clauses in the company’s articles of association. Moreover, data from 2024 show that the annual increase in inheritance-related cases reached 12.3%, of which 63% involved multiple children, cross-generational, or foreign assets. These statistics further highlight the complexity and diversity of issues surrounding the inheritance of shareholder qualifications.

One of the most fundamental problems in current judicial practice is the inconsistent use of terminology related to inheritance. Article 90 of the Company Law explicitly stipulates that "shareholder qualification may be inherited in accordance with law" (Company Law of the People's Republic of China, 2023). However, courts have not developed uniform understanding of the relationship between shareholder qualification inheritance and equity inheritance.

Different courts approach these concepts differently. Some courts treat the two as equivalent. They believe that adjudicating whether one possesses shareholder qualification equals determining whether equity is inherited. This approach oversimplifies the complex legal relationships involved (Hu, 2016). Other courts define shareholder qualification as shareholders' identity rights. They distinguish it from the property interests of equity. This distinction represents a more sophisticated understanding of the legal concepts involved. Han (2019) emphasizes that shareholder qualification confirmation requires both formal and substantive factor consideration.

Unclear Timing of Equity Inheritance: Courts show significant differences regarding when heirs acquire shareholder rights. Li and Luo (2019) note that registration changes often serve different functions in different judicial approaches. Some courts believe that heirs automatically enjoy shareholder qualification from the date of the deceased's death. These courts point out that when company articles make no special provisions, heirs inherit the deceased's shareholder qualification in accordance with law. Industrial and commercial registration changes serve merely as rights publicity means that do not affect substantive rights.

However, another approach takes a different position. These courts believe heirs must fulfill corresponding company law procedures before acquiring shareholder qualification. They emphasize that heirs do not have qualification to initiate registration change litigation before legally completing registration changes. This approach treats industrial and commercial registration as a necessary condition for acquiring shareholder status.

Unclear Effectiveness of Articles Provisions: Courts have not formed unified consensus on the content and scope of exceptional provisions in company articles. This causes completely different judgments on articles restriction content and effectiveness in individual cases. Cahn and Donald (2018) note that similar challenges exist in other jurisdictions when balancing corporate autonomy with inheritance rights.

2.3. Legal Relationship Clarification

Nature of Equity: Academic exploration of equity inheritance has never ceased. Four representative theories have emerged regarding the nature of equity. These theories provide different perspectives on how equity should be understood and regulated in inheritance contexts (Kraakman & Armour, 2017).

The dual ownership theory suggests that companies and shareholders simultaneously enjoy ownership of company property. However, shareholders only enjoy income rights and partial disposal rights. This theory has faced criticism for potentially violating the principle of one thing, one right.

The creditor's rights theory proposes that companies are the sole subjects enjoying equity. When shareholders transfer property to companies, they convert ownership of this property into creditor's rights against the company. However, this theory ignores shareholders' voting and information rights.

The membership rights theory suggests that companies are profit-making corporate legal persons. Equity is a right that shareholders enjoy based on their membership status in profit-making associations. It represents a special right that is neither property rights nor creditor's rights.

The independent rights theory believes that equity is a new type of independent right. It organically combines common benefit rights with self-benefit rights. After shareholders contribute capital, what they obtain from the company is a new type of independent right. It combines both self-benefit rights and common benefit rights.

This study disagrees with treating equity as pure membership rights. Membership rights generally exist in non-profit legal person organizations. They have strong personal exclusivity and cannot be transferred or inherited. Equity, though also having certain personal characteristics, can still be transferred. Additionally, equity's purpose clearly lies in profit-seeking. This study believes it is more appropriate to recognize equity as an independent comprehensive civil right.

2.4. Related Concepts of Equity Inheritance

Concept and Inheritability: To understand equity inheritance properly, it is necessary first to clarify what constitutes inheritance in this context. From a social-legal perspective, inheritance represents a type of property relationship substitution caused by death. In the corporate context, equity inheritance can be understood as a legal transfer of equity relationships. Chang and Ho (2024) note that inheritance law reforms must consider corporate governance implications when dealing with equity inheritance issues.

Equity serves as core property rights in companies. It possesses negotiability and divisibility in the civil law sense. Articles 84 and 86 of the Company Law respectively set different procedural requirements for internal and external transfers of limited liability company equity (Company Law of the People's Republic of China, 2023). This clarifies their basic attributes of having independent property value.

Some views believe that shareholder qualification contains identity components with non-inheritable characteristics. However, this view fails to correctly distinguish the applicable boundaries between personal rights and identity rights. While shareholder qualification involves identity identification, its purpose is to exercise property rights. Hu (2016) points out that shareholders' ultimate goal is pursuing surplus. Identity-based rights exercise is merely the means to achieve this goal.

Restriction Logic: Limited liability companies combine both personal and capital combination characteristics. They emphasize combination based on capital contribution and trust among shareholders. From an institutional value perspective, companies are essentially economic organizations pursuing capital returns. Over-emphasizing combination among members easily sacrifices heirs' legitimate rights. This violates basic concepts of property inheritance systems. Ellul, Pagano, and Panunzi (2010) demonstrate that excessive restrictions on inheritance can harm both family wealth preservation and corporate efficiency.

2.5. Shareholder Qualification Inheritance

Concept and Recognition: In company law systems, shareholder qualification serves as the core identifier of whether civil subjects can become company shareholders. The Company Law constructs a relatively complete shareholder qualification recognition mechanism through Articles 55, 56, and 86 (Company Law of the People's Republic of China, 2023).

There are mainly two types of shareholder qualification acquisition methods. One is original acquisition. This means becoming company shareholders through subscribed capital contributions, company establishment, or capital increase acts. The other is derivative acquisition. This includes equity transfer, donation, bequest, and inheritance.

Shareholder qualification inheritance is based on derivative acquisition methods. It represents a form of shareholder status transfer triggered by legal facts, specifically death. Gao (2017) emphasizes that this type of acquisition differs fundamentally from consensual transfers because it operates through inheritance law rather than contract law principles.

Inheritability and Restrictions: Shareholder qualification inheritance systems function not only in company law domains but also result from inheritance law influence. They require attention to interactions between inheritance law and company law. Han (2019) believes that shareholder qualification carries certain identity colors. However, its essence remains an institutional arrangement serving equity property content exercise. It has certain instrumentality and subordination.

Limited liability companies combine both personal and capital combination characteristics as company types. They have relatively few shareholders with closed structures. This forms certain degrees of trust and dependence among shareholders. While acknowledging that shareholder qualification can be inherited, company law also allows necessary restrictions on heirs acquiring shareholder qualification. Hansmann and Kraakman (2017) note that such review mechanisms serve legitimate corporate governance purposes when properly designed.

2.6. Relationship Analysis

Equity vs. Shareholder Qualification: Regarding nature, shareholder qualification belongs to identity rights. Equity belongs to independent civil rights combining both identity rights and property rights. The two cannot be mentioned in the same breath because they serve different functions in corporate governance systems.

Shareholder qualification is a type of identity right representing shareholders' legal status as organizational members in internal structures. Equity is the sum of specific civil rights attached to this status. It usually includes voting rights, dividend rights, audit rights, and other components. Equity has composite attributes of property rights and identity rights (Hu, 2016).

The two have obvious differences in acquisition paths, transfer restrictions, and legal consequences. Acquiring shareholder qualification usually requires meeting specific conditions stipulated by company law or company articles. Equity, as property rights content, can be inherited, transferred, or pledged in accordance with law. However, acquiring equity does not naturally result in acquiring shareholder qualification.

Inheritance Relationships: Equity is a holistic right combining both property rights attributes and identity rights attributes. Company articles may legally restrict heirs from acquiring shareholder qualification. However, they have no right to exclude heirs from inheriting property rights portions in equity. This institutional design reflects legislative fine recognition of equity's composite attributes. Chang and Ho (2024) emphasize that inheritance law reforms must consider these dual characteristics when addressing equity inheritance issues.

Natural person shareholders' death does not lead to equity extinction. Instead, it triggers legal consequences of equity inheritance or transfer. Heirs can bear divisible property interests in equity based on inheritance law provisions. However, if company articles have restrictions, heirs may be unable to become shareholders in the company articles sense. They cannot enjoy governance rights.

2.7. Company Articles Restrictions

Nature and Function: Company articles are core legal documents for company establishment and operation. They reflect the Company Law's institutional balance between organizational structure and contractual freedom. They possess dual attributes of both organizational law and contract law. Siems (2018) notes that company articles serve similar constitutional functions across different legal systems.

As consensus carriers in the contract law sense, articles are institutional arrangements reached by shareholders based on autonomous will. They have mandatory binding force on companies, shareholders, and internal company members. Article 90 of the Company Law grants company articles certain discretionary power in restricting heirs from acquiring shareholder qualification (Company Law of the People's Republic of China, 2023).

Restriction Logic and Scope: In limited liability companies, shareholder qualification combines both property and personal combination characteristics. Company articles have high autonomy in ensuring shareholder structure stability. Article 90 of the Company Law allows company articles to restrict heirs from acquiring shareholder qualification. This reflects respect for contractual freedom and trust relationships among shareholders.

Company articles' restrictions on equity inheritance can be divided into two categories from an effectiveness perspective. These are prohibiting equity inheritance and restricting equity inheritance. Prohibiting equity inheritance means company articles stipulate that heirs cannot inherit equity. However, prohibiting equity inheritance does not equal depriving heirs of inheritance rights.

Restricting equity inheritance means company articles set certain admission thresholds for heirs joining companies. Only after meeting conditions stipulated in articles can heirs become company shareholders. Company articles are results of all

shareholders' autonomous will. As long as they do not violate legal mandatory provisions, such clauses should be valid.

Judgment Standards: Company articles formulation must follow several fundamental principles when addressing equity inheritance issues. Inheritance law must not be violated. Equity inheritance represents a civil-commercial crossover field. It must consider both inheritance law's basic principles of protecting citizens' private property inheritance rights and accept company articles' constraints.

Companies' personal combination nature must be protected. Articles 90 and 167 of the Company Law allow company articles to exclude or restrict heirs' shareholder qualification inheritance rights (Company Law of the People's Republic of China, 2023). Legislative purposes lie in maintaining limited liability companies' personal combination nature.

Company articles should not become tools for small numbers of controlling shareholders to profit. Provisions regarding equity inheritance in company articles should be formulated according to principles favoring companies' overall interests. These principles ensure that inheritance restrictions serve legitimate corporate governance purposes while preserving both family inheritance rights and corporate stability.

3. International examination of equity inheritance systems

3.1. Legislative Examination of Different Legal Systems

Different legal systems handle equity inheritance and shareholder qualification issues in various ways. These approaches provide valuable insights for China's institutional development.

Anglo-American Legal System: The UK Companies Act 2006 establishes a clear framework for equity inheritance (UK Parliament, 2006). Heirs must submit inheritance applications within prescribed time limits. All those entitled to acquire shares must notify the company of their identity. Such applications need board consent. The board cannot arbitrarily refuse shareholders from entering the company. They must exercise refusal rights based on company interest considerations.

Section 112(2) of the UK Companies Act 2006 stipulates that "every other person who agrees to become a company member and whose name is recorded in the member register is a company member" (UK Parliament, 2006). Heirs do not naturally acquire shareholder status. They only enjoy it after being registered in the company register.

American law uses "transfer" to simultaneously denote both share transfer and inheritance. It also distinguishes between the two. Share transfer belongs to voluntary transfer. Share inheritance belongs to involuntary transfer (Leacock, 2011). Courts usually maintain cautious attitudes when judging the applicability of restrictive inheritance clauses. Clauses restricting share transfers generally default to applying to voluntary transfer situations. They do not automatically apply to involuntary transfers unless articles specifically stipulate otherwise.

Continental Legal System: Article 15(1) of the German Limited Liability Company Law stipulates clearly that "shares may be transferred and inherited" (Gesetz betreffend die Gesellschaften mit beschränkter Haftung GmbHG, 2024). Article 1922 of the German Civil Code states that inheritance begins from the deceased's death. Heirs acquire the deceased's estate from that point (Bürgerliches Gesetzbuch BGB, 2025).

However, Article 16(1) of the German Limited Liability Company Law stipulates important conditions. It states that only after heirs or transferees are registered in shareholder registers that must be submitted to commercial registers are they considered company shareholders. Germany supports limited liability company share inheritability. It simultaneously stipulates that companies may restrict equity inheritance through company articles or shareholder resolution forms.

Article L223-13(1) of the French Commercial Code stipulates comprehensive provisions for inheritance (Code de commerce C. com., 2022). It states that "limited liability company shares may be transferred through inheritance. However, articles may stipulate that shareholders' spouses, heirs, direct ascendant relatives, or direct descendant relatives may become company shareholders only after obtaining recognition according to conditions stipulated in Article L233-14."

3.2. Case Studies

Williams v Russell Price Farm Services (United Kingdom): Russell Price Farm Services Ltd was a UK limited company. Its sole director and shareholder died in 2020. This caused company paralysis. The deceased left a will and appointed three will executors. However, they had not yet obtained Grant of Probate. They legally could not exercise shareholder rights.

The judge accepted the application. The ruling allowed three will executors to be registered as company shareholders. They gained rights to appoint new directors to restore company operations without yet obtaining Grant of Probate (Williams & Ors v Russell Price Farm Services Ltd, 2020). The judge emphasized that "in such undisputed, extremely urgent circumstances, courts have authority to allow will executors to exercise shareholder rights to avoid complete company paralysis."

Matter of Bernfeld (United States): In Matter of Bernfeld, the deceased Michael Bernfeld was a dentist and partner in a dental professional corporation. After Michael's death, partner Dr. Kurilenko continued controlling the company. He did not actively transfer the deceased's shares.

New York State courts supported company claims. They pointed out that according to limited liability company articles' restrictive clauses, heirs only enjoy property interests such as dividends. Membership status requires unanimous consent from all members (Matter of Bernfeld, 2014). American systems show stronger member consent priority principles. Corporate autonomy is placed above inheritance rights.

3.3. Comparison and Summary

Universal Recognition: Courts in various countries generally recognize that shareholders' property interests in companies belong to estate categories. These include profit distribution claim rights and residual property distribution rights. They should be transferred through inheritance procedures according to law. This consensus appears in Section 112 of the UK Companies Act 2006, multiple US state limited liability company provisions, and Germany's Limited Liability Company Law (Siems, 2018).

Two Institutional Approaches: One type is represented by the UK and Germany. It emphasizes inheritance-application-registration institutional paths. This requires heirs to fulfill

complete internal procedures before acquiring complete shareholder qualifications. Another type is represented by the US and France. It focuses more on company articles' autonomous effectiveness. Courts tend to treat articles provisions such as "new members need shareholder consent" as reasonable protection of company personal combination structures.

Balance Considerations: All systems examined share certain common principles. They recognize property inheritance rights while allowing some form of corporate control over membership. They provide mechanisms for resolving conflicts between inheritance and corporate governance. They also establish procedures for fair compensation when heirs cannot acquire full shareholder status.

The main differences lie in where the balance point is set. Some systems favor inheritance rights with limited corporate restrictions. Others prioritize corporate autonomy with stronger consent requirements. The choice often reflects broader legal culture differences regarding individual rights versus collective decision-making.

4. Institutional improvement recommendations

4.1. Clarifying the Starting Point of Equity Inheritance

Current law fails to explicitly stipulate when equity inheritance begins. This creates significant uncertainty in judicial practice. Scholars have developed two main theoretical approaches to address this timing question.

Some scholars support the death transfer theory (Chang & Ho, 2024). This position believes that inheritance takes effect from the deceased's death. Heirs immediately acquire rights to the deceased's equity upon death. Other scholars advocate the industrial and commercial registration theory (Li & Luo, 2019). This position believes that heirs can acquire shareholder qualification only after completing industrial and commercial registration changes.

Arguments for Death Transfer Theory: The author believes that adopting the death transfer theory is more reasonable. Article 1121 of the Civil Code clearly stipulates that inheritance begins from the deceased's death (Civil Code of the People's Republic of China, 2021). Legal system consistency requires uniform application of inheritance principles. If industrial and commercial changes are used as standards in the company law field, this creates institutional conflicts between different areas of law.

The death transfer theory helps avoid governance vacuum situations. If industrial and commercial changes are treated as signs of inheritance completion, there will be an equity suspension period between heirs and companies. During this period, heirs cannot exercise voting, dividend and other shareholder rights. Companies may make major decisions during this time. Heirs' rights and interests may suffer damage.

Proposed Dual-Track Approach: The author suggests that natural person death should be treated as the starting point of equity inheritance. This approach should distinguish between inheritance's internal effectiveness and external effectiveness. Within companies, heirs should acquire shareholder status from the deceased's death. They should enjoy self-benefit rights and common benefit rights.

Industrial and commercial registration changes remain required to produce effectiveness against third parties. This maintains transaction safety. It provides clear public notice of ownership changes. This mechanism protects heirs' rights while maintaining transaction safety. Companies should actively assist heirs in completing registration changes. Article 34 of the Company Registration Management Regulations requires this assistance (Regulations on the Administration of Company Registration of the People's Republic of China, 2014).

4.2. Standardizing Company Articles

Company articles serve as core carriers of corporate autonomy. They represent important legal sources of company law (Kraakman & Armour, 2017). However, many companies treat articles formulation as mere formalities in practice. They use templates without making specific arrangements based on their own governance needs or potential inheritance issues.

Current Problems: Many companies approach articles formulation without adequate consideration of inheritance issues. Generic articles often fail to address specific inheritance scenarios. They may not clarify procedures for heir qualification. Time limits for decision-making remain unclear. Alternative arrangements when heirs cannot or choose not to become shareholders are often missing.

Articles frequently fail to specify who has authority to make inheritance-related decisions within the company. This can lead to conflicts between different company organs. Many articles do not establish clear mechanisms for compensating heirs when they cannot acquire full shareholder status. This creates potential for disputes and unfair outcomes.

Guidance for Improvement: Companies should emphasize standardized articles formulation. Article 90 of the Company Law grants articles "otherwise stipulated" effectiveness (Company Law of the People's Republic of China, 2023). Equity inheritance related clauses should be clarified and refined. This helps companies prevent and standardize governance risks in equity inheritance.

Articles should specify clear procedures for inheritance cases. This includes notification requirements and time limits for company decisions. Appeal mechanisms for disputed cases should be established. Articles should clearly designate which company organ has authority to make inheritance-related decisions. When articles allow company discretion in accepting heirs, they should specify objective criteria for evaluation.

4.3. Special Circumstances

No Inheritance Situations: When no one inherits, equity is left in a suspended state. This creates significant problems for corporate governance. According to the Inheritance Part, equity with no inheritance belongs to the state or collective ownership. It is used for public welfare causes (Civil Code of the People's Republic of China, 2021). The company's nature will inevitably change as a result.

State or collective ownership organizations joining companies will inevitably impact company personal combination nature. According to Civil Code provisions, equity with no inheritance is used by the state for public welfare causes. This greatly differs from capital's profit-seeking essence. When no one inherits deceased shareholders' equity, companies should pay consideration equivalent to equity value to the state or collective ownership organizations. They should buy back company equity through this payment.

Multiple Inheritance: Multiple people jointly inheriting equity creates complex governance challenges. When there are many heirs, practical questions arise about how to exercise shareholder rights effectively. One solution involves designating a single representative among the heirs. This representative exercises voting rights and participates in company governance on behalf of all heirs.

Another approach involves dividing the inherited equity among heirs according to their inheritance shares. Each heir would then hold separate equity stakes. A third option involves establishing trust arrangements. Inherited equity is held by a trustee who exercises rights on behalf of beneficiary heirs.

When there are many heirs, equity division may lead to shareholder numbers exceeding the 50-person limit. Article 42 of the Company Law stipulates this limit (Company Law of the People's Republic of China, 2023). One approach involves limiting the 50-person cap only to company establishment times. Another solution involves changing company types to joint stock companies when shareholder numbers exceed limits.

4.4. From Transfer Theory to Succession Theory

Article 90 is in Chapter 4 on Share Transfers and grants important rights to company articles provisions. Companies may treat inheritance shareholder qualifications as equity transfers to exclude new shareholders from joining. Regarding shareholder qualification succession issues caused by natural person shareholder deaths, academia mainly has two theoretical paths (Hu, 2016). These are "equity transfer mode" and "equity succession mode."

Limitations of Transfer Mode: The author tends to support the equity succession mode. Shareholder qualification succession caused by natural person deaths should be defined as factual legal inheritance acts. They should not be treated as "equity transfer acts" in the company law sense.

From legal nature perspectives, shareholder qualification inheritance and equity transfers have significant essential differences. The former originates from natural person death as legal facts. It belongs to succession acquisition factual acts. The latter are contractual acts reached between parties based on autonomous intentions.

Analogizing inheritance to transfers and applying Article 84 of the Company Law's shareholder consent mechanisms conflicts with Article 90's legislative intentions (Company Law of the People's Republic of China, 2023). Article 90 has clearly excluded other shareholders' preemptive purchase rights in inheritance situations.

Succession Mode Benefits: This mode highly aligns with the Civil Code Inheritance Part's systematic logic. Article 1121 of the Civil Code clearly stipulates that "inheritance begins from the deceased's death" (Civil Code of the People's Republic of China, 2021). Inheritance rights occur immediately upon death. They have immediate effectiveness.

This mode helps shorten "shareholder qualification suspension state" durations. It enhances certainty and efficiency in commercial transactions. "Succession modes" use death as ownership change nodes. This enables heirs to enjoy shareholder status from death times. It facilitates timely protection of their information rights, voting rights and other rights.

International Support: "Succession Mode" conforms to mainstream trends in foreign legislation. Article 223-13 of the French Commercial Code clearly treats equity as inheritable and "freely transferable" (French Commercial Code, 2023). Article 608 of Japan's Company Law stipulates that if articles permit, heirs should immediately acquire shareholding qualifications after natural person shareholders die. German law provides clear statutory recognition of inheritance rights while allowing companies to establish reasonable restrictions (Cahn & Donald, 2018).

Implementation Recommendations: Based on the above analysis, specific suggestions can be proposed for China's institutional design. Heirs should enjoy shareholder status from deceased persons' deaths. Registration serves as formal requirements for opposing companies or third parties rather than substantive prerequisites for qualification acquisition.

Companies should be allowed to set reasonable restrictive conditions for heirs' qualifications. However, absolutely exclusive inheritance clauses should be prohibited. When heirs cannot inherit shareholder qualifications, companies should arrange buybacks through articles agreements within reasonable periods.

5. Conclusion

China's limited liability company equity inheritance and shareholder qualification system requires comprehensive reform addressing multiple interconnected issues. This chapter has proposed specific solutions in four key areas. These include clarifying inheritance timing, standardizing company articles, addressing special circumstances, and transitioning from transfer to succession theory.

The proposed dual-track approach to inheritance timing provides immediate rights protection for heirs. It maintains transaction safety through registration requirements. Standardized company articles can prevent disputes and provide clear guidance for inheritance situations. Special circumstance provisions ensure that unusual inheritance scenarios do not disrupt corporate governance or create unfair outcomes.

The transition from equity transfer theory to equity succession theory provides a coherent theoretical foundation. It aligns with inheritance law principles while respecting legitimate corporate governance needs. These reforms work together to create a comprehensive system. They balance competing interests fairly and efficiently. They provide greater certainty for all parties while maintaining flexibility necessary for diverse business situations.

The ultimate goal is a system that protects inheritance rights while supporting effective corporate governance. It should reduce litigation and uncertainty and promote confidence in China's corporate law framework. These improvements will benefit current stakeholders and support long-term development of China's corporate sector and broader economy.

Author Contribution

Kexin Wang is the sole author of this article and was responsible for the conception, research design, literature review, data analysis, case study selection, comparative law research, theoretical development, and manuscript preparation.

Compliance with Ethical Standards

This research does not involve any studies with human participants or animals performed by the author. All data used were publicly accessible and no ethical approval was required.

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Competing Interest declaration

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