



XIAMEN UNIVERSITY TAX SUMMER SCHOOL SPECIAL ISSUES ON TAX TREATY LAW (18/07 – 22/07/2016)

SPEAKERS:

Dr. Karoline Spies: Post-Doctoral Research Associate, Institute for Austrian and International Tax Law at WU.

David Orzechowski, BSc. (WU), LL.B. (WU): Research and Teaching Associate, Institute for Austrian and International Tax Law at WU.

Pedro Schoueri, LL.M.: Research Associate, Institute for Austrian and International Tax Law; PhD-Student in the DIBT Program (Doctoral Program in International Business Taxation); both at WU.

Viktoria Wöhrer, LL.M., BSc.: Research and Teaching Associate, Institute for Austrian and International Tax Law at WU.

PROGRAM:

Monday 18/07/2016

09:00-10:30 INTRODUCTION TO TAX TREATY LAW (*Karoline Spies*)

Structure of double tax treaties: definitions, distributive rules and methods for elimination of double taxation, interaction of domestic law and treaty law, OECD and UN Model Convention

11:00-12:30 INTERPRETATION OF TAX TREATIES (*David Orzechowski*)

Concept of interpretation, interpretation of international treaties, interpretation of tax treaties, role of OECD/UN Model Convention and their Commentaries, DTTs in relation to domestic law

14:00-15:30 SCOPE OF TAX TREATIES (*David Orzechowski*)

Taxes covered, persons covered, deemed residence, centre of vital interests, place of effective management

16:00-17:00 ABUSE OF TAX TREATIES – WHERE ARE THE LIMITS? (*Karoline Spies*)

Abuse in treaty law, treaty shopping, anti-abuse rules in tax treaties and under domestic law, limitation-on-benefits clause, principle-purpose test (BEPS Action 6)

Tuesday 19/07/2016

09:00-10:30 ABUSE IN INTERNATIONAL TAX LAW – BEPS (*Karoline Spies*)

Aggressive tax planning structures through examples, Overview and status of the OECD BEPS project

14:00-15:30 Session delivered by Xiamen University

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16:00–17:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – BASIC PRINCIPLES (*Viktoria Wöhrer*)

Distributive rules relevant for companies: Arts. 7, 8 and former Art. 14 OECD Model Convention, definition of PE (Art. 5 OECD Model Convention/UN Model), physical PE, construction PE, agency PE and service PE, allocation of profits between head office and PE (Art. 7 para. 2 OECD Model Convention), dealings between head office and PE, AOA (Authorized OECD Approach)

Wednesday 20/07/2016

09:00-10:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – RECENT DEVELOPMENTS (*Viktoria Wöhrer*)

Preventing the artificial avoidance of PE status (BEPS Action 7), *commissionnaire* arrangements, exceptions in Art. 5(4), developments in the UN Model

11:00-12:30 TRANSFER PRICING (*Karoline Spies/Viktoria Wöhrer*)

Associated companies (Art. 9 OECD Model Convention), OECD Transfer Pricing Guidelines, transfer pricing methods through examples, adjustments to intercompany pricing, secondary adjustments, documentation requirements, overview of complex transfer pricing issues (intangibles), BEPS Action 8-10

14:00–15:30 QUALIFICATION AND ALLOCATION CONFLICTS (*Karoline Spies*)

Qualification and allocation conflicts, Partnership Report, proposed rule in Art. 1(2) (BEPS Action 2)

16:00–17:30 EXAM PREPARATION (*David Orzechowski/Viktoria Wöhrer*)

Examples for exam; How to solve cases in a systematic way

Thursday 21/07/2016

09:00-10:30 PASSIVE INCOME (*Pedro Schoueri*)

Terms “dividends”, “interest” and “royalties”, government bonds, costs of debt financing, withholding tax, cross-border software-planning, leasing transactions, frequent deviations from the OECD Model in bilateral treaties

11:00-12:00 BENEFICIAL OWNERSHIP (*Pedro Schoueri*)

Definition, problems connected with the term, 2014 update to the OECD Model, recent case law

13:30-15:30 TAXATION OF EMPLOYMENT INCOME (*David Orzechowski/Viktoria Wöhrer*)

Distributive rule for income from dependent work, term of “salaries, wages and other similar remuneration”, term of “employer”, frontier workers, 183-days-rule, severance payments, distributive rule for pensions, public service pensions, distributive rule for artists and sportsmen

16:00-17:30 METHODS TO AVOID DOUBLE TAXATION (*Pedro Schoueri*)

Exemption method, exemption with progression, credit method, ordinary credit, tax sparing credit

Friday 22/07/2016

09:00-10:30 NON-DISCRIMINATION (*David Orzechowski/Pedro Schoueri*)

Non-discrimination clauses in tax treaties (Art. 24 OECD Model Convention), case law on the non-discrimination clause

11:00-12:30 EXCHANGE OF INFORMATION (*Pedro Schoueri/Viktoria Wöhrer*)

Art 26 OECD Model Convention: exchange of information on request, spontaneous exchange of information, automatic exchange of information, Model Agreement on Exchange of Information on Tax Matters (TIEA), Multilateral Convention on Mutual Administrative Assistance in Tax Matters, Agreement on the Global Standard of Automatic Information Exchange, EU developments

14:00-15:30 EXAM

(Supervision: *Karoline Spies, David Orzechowski, Pedro Schoueri, Viktoria Wöhrer*)

16:00-17:30 Discussion of exam questions

(Explanation of cases: *Karoline Spies, David Orzechowski, Pedro Schoueri, Viktoria Wöhrer*)

