



XIAMEN UNIVERSITY TAX SUMMER SCHOOL SPECIAL ISSUES ON TAX TREATY LAW (08/07 – 13/07/2019)

SPEAKERS:

Gabriela Capristano, Florian Fiala, Xiangdan Luo, Andreas Ullmann

PROGRAM:

Monday 08/07/2019

09:00-10:30 OPENING

11:00-12:30 INTRODUCTION TO TAX TREATY LAW, SCOPE OF TAX TREATIES (*Andreas Ullmann*)

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

14:00-15:30 INTERPRETATION OF TAX TREATIES (*Andreas Ullmann*)

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

16:00–17:30 Session delivered by Xiamen University

Tuesday 09/07/2019

09:00-10:30 ABUSE OF TAX TREATIES – WHERE ARE THE LIMITS? (*Florian Fiala & Andreas Ullmann*)

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

11:00-12:30 ABUSE IN INTERNATIONAL TAX LAW – BEPS (*Florian Fiala & Andreas Ullmann*)

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

14:00-15:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – BASIC PRINCIPLES
(*Gabriela Capristano & Xiangdan Luo*)

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)

16:00–17:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – RECENT DEVELOPMENTS
(*Gabriela Capristano & Xiangdan Luo*)

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

Wednesday 10/07/2019

09:00–10:30 TRANSFER PRICING 1 (*Gabriela Capristano*)

Associated companies (Art. 9 OECD Model Convention), OECD Transfer Pricing Guidelines, transfer pricing methods through examples, adjustments to intercompany pricing, secondary adjustments, documentation requirements

11:00–12:30 TRANSFER PRICING 2 (*Gabriela Capristano*)

Case study of transfer pricing issues

14:00-15:30 PASSIVE INCOME (*Florian Fiala*)

Definition of “dividends”, “interest” and “royalties”, allocation of taxing rights, withholding taxes, beneficial ownership, PE proviso and relation to Art 7

16:00-17:30 IMMOVABLE PROPERTY AND CAPITAL GAINS (*Florian Fiala*)

Art 6: Definition of “immovable property”, allocation of taxing rights, relation to other allocation rules; Art 13: Definition of “alienation”, alienation of immovable property, movable property, shares and other property, relation to other allocation rules; recent case law

Thursday 11/07/2019

09:00–10:30 METHODS TO AVOID DOUBLE TAXATION (*Xiangdan Luo*)

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

11:00-12:30 QUALIFICATION AND ALLOCATION CONFLICTS (*Xiangdan Luo*)

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

14:00-15:30 TAXATION OF EMPLOYMENT INCOME (*Andreas Ullmann*)

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

16:00–17:30 Session delivered by Xiamen University

Friday 12/07/2019

09:00-10:30 NON-DISCRIMINATION (*Xiangdan Luo*)

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 (*Florian Fiala*)

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

14:00-14:50 TAX TREATIES IN PRACTICE (Representative of WTS)

Administrative Appeal Case on royalties

15:00–15:50 DISPUTE RESOLUTION (*Gabriela Capristano*)

Mutual agreement procedure (MAP), arbitration

16:00-17:30 EXAM PREPARATION

(*Gabriela Capristano, Florian Fiala, Xiangdan Luo, Andreas Ullmann*)

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

Saturday 13/07/2019

09:00-10:30 EXAM

(Supervision: *Gabriela Capristano, Florian Fiala, Xiangdan Luo, Andreas Ullmann*)

11:00-12:30 Discussion of exam questions

(Explanation of cases: *Gabriela Capristano, Florian Fiala, Xiangdan Luo, Andreas Ullmann*)

