



## **XIAMEN UNIVERSITY TAX SUMMER SCHOOL SPECIAL ISSUES ON TAX TREATY LAW (23/07 – 28/07/2018)**

### **SPEAKERS:**

Claire Peng, Marta Olowska, Jean-Philippe Van West, Andreas Ullmann

### **PROGRAM:**

#### ***Monday 23/07/2018***

09:00-10:30 OPENING

11:00-12:30 INTRODUCTION TO TAX TREATY LAW, SCOPE OF TAX TREATIES (Jean-Philippe Van West)  
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 24/07/2018***

09:00-10:30 ABUSE OF TAX TREATIES – WHERE ARE THE LIMITS? (Jean-Philippe Van West & 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 (Jean-Philippe Van West & 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 (*Claire Peng & Marta Olowska*)

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  
(*Claire Peng & Marta Ołowska*)

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

### **Wednesday 25/07/2018**

09:00-10:30 PASSIVE INCOME (*Claire Peng*)

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

11:00-12:30 BENEFICIAL OWNERSHIP (*Marta Ołowska*)

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

14:00–15:30 TRANSFER PRICING 1 (*Claire Peng*)

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

16:00–17:30 TRANSFER PRICING 2 (*Claire Peng*)

Case study of transfer pricing issues

### **Thursday 26/07/2018**

09:00-10:30 QUALIFICATION AND ALLOCATION CONFLICTS (Jean-Philippe Van West)

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

11:00-12:30 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, severance payments, distributive rule for pensions, public service pensions, distributive rule for artists and sportsmen

14:00–15:30 METHODS TO AVOID DOUBLE TAXATION (Jean-Philippe Van West)

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

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

### **Friday 27/07/2018**

09:00-10:30 NON-DISCRIMINATION (*Marta Ołowska*)

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 (*Marta Ołowska*)

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 DISPUTE RESOLUTION (Andreas Ullmann)

Mutual agreement procedure (MAP), arbitration

16:00-17:30 EXAM PREPARATION (*Claire Peng, Marta Olowaska, Jean-Philippe Van West, Andreas Ullmann*)

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

***Saturday 28/07/2018***

09:00-10:30 EXAM

(Supervision: Claire Peng, Marta Olowaska, Jean-Philippe Van West, Andreas Ullmann)

11:00-12:30 Discussion of exam questions

(Explanation of cases: Claire Peng, Marta Olowaska, Jean-Philippe Van West, Andreas Ullmann)

