

SUMMER SCHOOL OF INTERNATIONAL TAX LAW AT XIAMEN UNIVERSITY IN XIAMEN (P.R.C)

SPECIAL ISSUES ON TAX TREATY LAW

(21/06 – 25/06/2014)

SPEAKERS:

Prof. Dr. Dr. h.c. Michael Lang: Head of the Institute for Austrian and International Tax Law; Director of the LL.M. Program in International Tax Law and the Doctoral Program in International Business Taxation (DIBT) at WU (Vienna University of Economics and Business).

MMag. Oliver-Christoph Guenther, LL.M. (WU): Associate, Freshfields Bruckhaus Deringer LLP; External Lecturer, Institute for Austrian and International Tax Law at WU.

Mag. Ina Kerschner: Research and Teaching Associate, Institute for Austrian and International Tax Law at WU.

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

Marion Stiastry, MSC (WU): Research and Teaching Associate, Institute for Austrian and International Tax Law at WU.

Saturday 21/06/2014

09:00–10:30 INTRODUCTION TO SPECIAL ISSUES ON TAX TREATY LAW (*MICHAEL LANG/OLIVER-CHRISTOPH GÜNTHER*)

Structure of Double Tax Treaties; Interaction of Domestic Law and Treaty Law; Importance of Regulation in Terms of the Scope of the Convention with regard to the Persons and the Taxes Covered, Distributive Rules and Methods for Elimination of Double Taxation.

11:00-12:30 INTERPRETATION AND APPLICATION OF TAX TREATIES IN PRACTICE (*MICHAEL LANG/OLIVER-CHRISTOPH GÜNTHER*)

Rule of Interpretation of Art 3(2) OECD Model Convention; Relevance of the OECD Model Commentary and its Modifications in Practice.

14:00-15:30 ABUSE OF TAX TREATIES – WHERE ARE THE LIMITS? (*MICHAEL LANG/OLIVER-CHRISTOPH GÜNTHER*)

Limitation of Tax Avoidance by means of Double Tax Treaties; Anti-abuse and Substance-over-form-Concepts; Limitation on Benefits Clauses; Abuse in Treaty Law; Treaty Shopping; Rule Shopping; Directive Shopping.

16:00-17:30 OECD MODEL AND ITS COMMENTARY 2014 (*MICHAEL LANG/OLIVER-CHRISTOPH GÜNTHER*)

Recent Changes to the OECD Model and the Commentary to the OECD Model.

Sunday 22/06/2014

09:00-10:30 OTHER RECENT OECD DEVELOPMENTS WITH REGARD TO INCOME TAXES; RECENT BILATERAL TAX TREATY DEVELOPMENTS (*OLIVER-CHRISTOPH GÜNTHER*)

Recent OECD Reports; Recent OECD Discussion Drafts; Recent Bilateral Tax Treaty Developments Around the World.

11:00-12:30 UN MODEL 2011 (*OLIVER-CHRISTOPH GÜNTHER*)

Recent Changes to the UN Model and the Commentary to the UN Model.

Monday 23/06/2014

09:00-10:30 RECENT CASE LAW ON BUSINESS PROFITS AND ON PERMANENT ESTABLISHMENTS (*INA KERSCHNER*)

Distributive Rules relevant for Companies (Art. 7 OECD Model), Independent Personal Services (Formerly Art. 14 OECD Model) and Shipping, Inland Waterways Transport and Air Transport (Art. 8 OECD Model); Allocation of the Right of Taxation; The Concept of Permanent Establishment (Art. 5 OECD Model).

11:00-12:30 RECENT CASE LAW ON QUALIFICATION CONFLICTS AND THE TAX TREATY TREATMENT OF PARTNERSHIPS (*MARION STIASTNY*)

Qualification Conflicts; OECD Partnership Report; Treatment of Partnerships.

14:00-15:30 RECENT DEVELOPMENTS IN TRANSFER PRICING (*NA LI*)

Allocation of Profits between Head Office and Permanent Establishments (Art. 7(2) OECD Model); Dealings between Head Office and Permanent Establishments; The OECD Separate Entity Approach; Associated Companies (Art. 9 OECD Model); Transfer Pricing Issues; Adjustments of Intercompany Pricing; Secondary Adjustments; Documentation Requirements.

16:00-17:30 HOW DO TAX TREATIES WORK IN PRACTICE? (*NA LI*)

Discussing and Solving Case Studies; Preparation for Exam.

Tuesday 24/06/2014

09:00-10:30 RECENT CASE LAW ON DIVIDENDS, INTEREST AND ROYALTIES (*NA LI*)

The Term “Dividends”; Income from Shares Falling under the Participation Exemption; Interest; Government Bonds; Costs of Debt Financing; Withholding Tax; Royalties; Cross-border Software-planning; Leasing Transactions.

11:00-12:30 RECENT CASE LAW ON BENEFICIAL OWNERSHIP IN TAX TREATY LAW (*NA LI*)

Definition; Problems connected with the Term.

14:00-15:30 RECENT CASE LAW ON EMPLOYMENT INCOME AND PENSIONS (*MARION STIASTNY*)

Income from Dependent Work; Frontier Workers; 183-days-rule; Public Service; Pensions; Severance Payments; Artistes and Sportsmen.

16:00-17:30 HOW DO TAX TREATIES WORK IN PRACTICE? (*MARION STIASTNY*)

Discussing and Solving Case Studies, Preparation for Exam.

Wednesday 25/06/2014

09:00-10:30 RECENT CASE LAW ON THE METHODS TO AVOID DOUBLE TAXATION (*INA KERSCHNER*)

Exemption Method; Exemption with Progression; Credit Method; Maximum Credit.

11:00-12:30 PROTECTION AGAINST DISCRIMINATION ON TAX TREATIES (*MARION STIASTNY*)

Tax Planning by Means of Non-discrimination Clauses; Legal Background of Non-discrimination Clauses; Significance in Tax Treaty Practice.

14:00-15:30 THE IMPACT OF EUROPEAN LAW ON TAX TREATY LAW (*INA KERSCHNER*)

Fundamental Freedoms; Case Law of the European Court of Justice; Recent Developments.

16:00-17:30 EXAM

18:00-18:30 CLOSING CEREMONY

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