

# Institute for Austrian and International Tax Law Vienna Report on Academic Activities 2020/21

**WU**  
WIRTSCHAFTS  
UNIVERSITÄT  
WIEN VIENNA  
UNIVERSITY OF  
ECONOMICS  
AND BUSINESS





# 1



## PREFACE

This report presents the activities of the Institute for Austrian and International Tax Law during academic year 2020/21, which started on October 1, 2020, and ended on September 30, 2021. It was a very successful year for our Institute and for the team as a whole.

This year continued to present us with new challenges. In retrospect, it was once again a year of improvisation, but also of innovation. Despite the challenges, we are happy to report that we were able to carry out almost all of our scientific activities as planned, mostly in an online or hybrid format. This was made possible thanks to all those involved going the extra mile. We would like to thank everyone who helped make this possible, as well as all our friends who continue to support us.

The Institute for Austrian and International Tax Law is the largest university-based institution in tax law worldwide. As well as carrying out research and teaching activities at WU (Vienna University of Economics and Business), the Institute is involved in many national and international research projects, and therefore has an excellent worldwide reputation. Being the hub for the international tax community, the Institute offers a unique academic platform for significant, innovative, and inspiring tax-related research. We are proud to be part of WU. To a large degree, we are financed by WU as well as by the Austrian taxpayer.

However, to a significant extent, we also receive funds from Austrian and European research institutions, from our partners in the business community, and from private and corporate sponsors. For example, nearly half of our staff is financed from sources outside the WU budget. We are grateful to the taxpayer and to all our sponsors and partners and feel committed to them.

We therefore want to take this opportunity to report back to them, to our students and alumni, and to our friends and colleagues in the international scientific community on how we are investing this money and to highlight the results we have achieved. We hope to be able to show that the funds are being used very efficiently.

Our main fields of interest are corporate tax law, international tax law, and European tax law, and to a growing extent tax policy, transfer pricing, and VAT. Most of our research activities deal with issues in these areas. This is also true for our teaching activities. On a daily basis, we are aware of the fact that our research activities ensure the quality of our teaching, and that, vice versa, teaching helps us to develop, structure, and discuss research ideas.

Georg Kofler

Michael Lang

Alexander Rust

Josef Schuch

Karoline Spies

Claus Staringer

Pasquale Pistone

Jeffrey Owens

Robert Risse

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 Prof. Alexander Rust  
 Prof. Josef Schuch  
 Prof. Karoline Spies  
 Prof. Claus Staringer

### Administrative Director

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### Jean Monnet Professor

Prof. Pasquale Pistone

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 Prof. Walter Hellerstein

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 Prof. Christian Kaeser  
 Prof. Helmut Loukota

### Director, WU Global Tax Policy Center

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### Managing Director, WU Transfer Pricing Center

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### Chair of the Board, WU Transfer Pricing Center

Prof. Robert Risse

### Program Leader, Cooperative Compliance

Jonathan Leigh-Pemberton

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#### Junior Researchers

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#### Administrative Staff

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 Tina Mittermüller  
 Katharina Nemeth  
 Nina Nimmerrichter  
 Myriam Pereira de Milinic  
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 Hedwig Pfanner  
 Carina Prugger  
 Caroline Ristić  
 Stephanie Roiss  
 Christina Sudrat  
 Ulrika Sundin-Speer





#### **Administrative Director: Position handover**

Maria Wimmer has accompanied our Institute as its Administrative Director for the past 13 years, during a period of enormous growth. This was made possible only because she was able to set up an administrative team of up to 18 employees to support all of our scientific projects. We owe her a lot! Maria Wimmer will continue to support us, but would like to take a back seat. Her position as Administrative Director was taken over on June 1, 2021, by Theodora Stergidou, who has supported Maria over the past few years and knows our Institute very well. Maria will now support Theodora in her duties as Administrative Director and will take over special projects at the Institute. Ideal conditions for a successful change in leadership!

#### **Well-deserved retirement: Renée Pestuka**

Our dear Renée Pestuka has put her unique stamp on our international scientific conferences through her excellent organizational skills and personal touch, and created best practice in conference organization. With her affinity for detail in assisting the international scientific community, she has made a significant contribution to its expansion. In anticipation of her retirement, Renée Pestuka has also spent the past few years carefully handing over her tasks to her successors, especially to Hedwig Pfanner, which will ensure continuity for all of our friends and guests.

#### **The Tax Practice Advisory Council at our Institute**

Our Tax Practice Advisory Council is made up of leading experts from international tax practice, with whom we consult on a regular basis. The Tax Practice Advisory Council advises the board of the Institute on strategic decisions in order to guarantee the

Institute's position as a globally leading academic research facility in the field of tax law. Moreover, it is the purpose of the Tax Practice Advisory Council to provide a link between the Institute and tax practitioners.

The members of our Tax Practice Advisory Council are: Alessandro Bucchieri (Enel Group), Paolo Ludovici (Gatti Pavesi Bianchi Ludovici), Guglielmo Maisto (Maisto e Associati), Arne Schnitger (PwC), Thomas Töben (Schnitker Möllmann Partners), Monique van Herksen (Simmons & Simmons), Walter Vigo (Unicredit SpA), Graeme Alan Wood (The Procter & Gamble Company).

#### **Triple Award for the Institute for Austrian and International Tax Law**

In the field of Tax Law, there are three major awards worldwide every year: The Mitchell B. Carroll Prize for the world's best scientific work in the field of direct taxation, the Maurice Lauré Prize awarded to the best work in the field of indirect taxation, and every year the European Association of Tax Law professors announce the European Academic Tax Thesis Award for the best tax law monograph written at a European University. Employees of the Institute have already been awarded these major prizes on many occasions. In 2020, the Institute for Austrian and International Tax Law achieved the Triple for the first time and received all three prestigious awards: Dr. Raphael Holzinger won the Mitchell B. Carroll Prize for his work on the topic "Ergebnisabgrenzung bei verbundenen Unternehmen und Betriebsstätten Post-BEPS: Rechtsformneutralität im OECD Musterabkommen", Prof. Karoline Spies received the Maurice Lauré Prize for her habilitation thesis "Permanent Establishments and Value Added Tax", and Dr. Rita Julien won the European Academic Tax Thesis Award for her work on the topic "Credit Method: Compatibility and Constraints under EU Law".



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## TEACHING



### Teaching Activities in the Standard Program

The basic course “Introduction to Tax Law” is mandatory for most students enrolled in the standard programs at our university. The Institute for Austrian and International Tax Law organizes this course as well as the exams. The course is offered in both German and English. In academic year 2020/21, about 1,514 students took exams for this course.

The Bachelor Program in Business Law, which combines legal training with a solid education in business administration, comprises three mandatory courses in tax law. After “Introduction to Tax Law”, students have to take “Basic Topics in Tax Law”, a course that focuses on individual and corporate tax law, VAT and procedural law. The mandatory program ends with “Advanced Topics in Tax Law”, which is a seminar on selected recent tax issues dealt with by national or international courts or tax authorities. Those students who want to specialize further may decide to take “European Tax Law” or other elective courses like “Procedural Tax Law”, “Digitalization and Tax Law”, “International Tax Law”, “EU Tax Policies in the Field of Direct Taxation”, “Tax Law in Practice” or “Introduction to Transfer Pricing”, which is of high relevance in the business world.

For the English Bachelor Program in Business and Economics, our Institute offers the mandatory course “Law, Economics and Business”. Since academic year 2020/21, we have also offered the specialization “International and European Tax Law”. This specialization of six courses covers the most relevant areas in international tax law.

Every student is required to write a Bachelor thesis. Each year, the Institute provides four main topics, which are divided into twenty sub-topics each, for which the students of bachelor programs can apply.

The Master Program in Business Law focuses on a comprehensive theoretical and practical education in Austrian, European, and International Business Law and qualifies in particular for juridical jobs. WU’s Master Program in Taxation and Accounting provides students with a comprehensive, interdisciplinary, and specialist education in the fields of accounting and taxation. Graduates become highly qualified to work in fields like tax consultancy or auditing, or in the tax departments of large corporations.

Both Master Programs provide mandatory courses in tax law: In “Business Tax Law”, the students gain a deeper knowledge regarding the subtleties of corporate income taxation. “Tax Treaty Law” deals with the application of double taxation conventions. On the course “Foreign Tax Law”, held by international guest professors, students may choose between courses dealing with developments in international tax law and in foreign tax jurisdictions. In academic year 2020/21, the following guest professors held online lectures in “Foreign Tax Law”: Prof. Joseph Clifton Fleming (USA), Richard Stern, PhD (USA), Prof. Van Thiel (Belgium), Prof. John Prebble (New Zealand), Prof. Pablo Hernandez Gonzales-Barreda (Spain), Prof. Walter Hellerstein (USA), Prof. María Cruz Barreiro Carril (Spain), and Dr. Alice Pirlot (UK). Finally, our Institute offers an “Advanced Seminar on Tax Law” course. Students may choose “Simulated Tax Treaty Negotiations”, where students from WU and the University of Amsterdam or São Paulo negotiate a fictitious double taxation treaty between their countries via a video conference, “Tax Planning and Transfer Pricing in Multinational Companies”, “Seminar on European Tax Law”, “Seminar on Current Developments in European and International Tax Law”, “Seminar on Business Tax Law in the Form of Simulated Client Meetings” or “European Value Added Tax – Current Issues and Future Developments”. For Master Program students with a special interest in VAT, the Institute provides an elective course on “Special VAT Issues in a National and International Context”.

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## TEACHING

In addition to the abovementioned courses, students on the Master Program Taxation and Accounting are required to take the following courses in tax law: "Tax Policy" and "Corporate Tax Law", which focuses on special subjects within corporate tax law. Students may choose from "Deepening in VAT" and "Tax Planning and Transfer Pricing in Multinational Companies". On the Master Program Finance and Accounting, our Institute offers a mandatory course in "Corporate Tax Law for Finance and Accounting".

Each student on either Master Program is required to prepare a Master thesis that demonstrates their ability to independently treat a topic with the help of academic research methods. Ambitious students are invited to write a tax-related Master thesis at our Institute. A total of 19 Master theses were approved at our Institute in academic year 2020/21.

In compliance with the regulations set out by the Austrian authorities, all teaching activities on the WU Campus were switched to a distance-learning format as a preventative measure to curb the spread of the COVID-19. The courses were held in various online formats, more than 80% of the students on the business tax law program were satisfied with the wide range of online courses. In general, the WU has gained a lot of experience with distance learning and has enhanced its digital course formats over the last few months, which in future could lead to the permanent integration of some distance-learning elements into the traditional lecture formats.

### Books for Students

Our Institute provides the materials required for these courses as well as guidance for students. The Institute provides "Introduction to European Tax Law on Direct Taxation" (sixth edition, published by Prof. Michael Lang, Prof. Pasquale Pistone, Prof. Josef Schuch, Prof. Claus Staringer, Prof. Alexander Rust, Prof. Georg Kofler, and Prof. Karoline Spies), "Introduction to Double Taxation Conventions" (substantially revised and updated, third edition, author Prof. Michael Lang), and "Praxisfälle Steuerrecht 3" ("Practical Case Studies in Tax Law", third volume, published by Dr. Caroline Heber and Prof. Daniela Hohenwarter-Mayr). Furthermore, the nineteenth edition of our book "Einführung in das Steuerrecht" ("Introduction to Tax Law", edited by Prof. Michael Lang, Prof. Alexander Rust, Prof. Josef Schuch, Prof. Claus Staringer, Prof. Georg Kofler, and Prof. Karoline Spies) was published. Based on this German-language textbook, the 3rd edition of the English counterpart "Introduction to Austrian Tax Law" (edited by Kurt Uebelhoer, Dr. Sebastian Pfeiffer, Dr. Eline Huisman, and Dr. Erich Schaffer) is available.





## Tax Law Courses

Course	Number of Students in 2020/21
Introduction to Tax Law (6 courses)	1514
Basic Topics in Tax Law (36 courses)	772
Seminar on Advanced Topics in Tax Law (6 courses)	626
Law, Economics and Business	247
European Tax Law	35
Procedural Tax Law	59
Digitalization and Tax Law (2 courses)	58
Introduction to Transfer Pricing	19
EU Tax Policies in the Field of Direct Taxation	15
Tax Law in Practice	39
International Tax Law (2 courses)	55
Tax Treaty Law (2 courses)	408
Business Tax Law (2 courses)	380
WU-BMF Seminar Business Tax Law	33
Tax Planning and Transfer Pricing in Multinational Companies Current Issues and Case Studies	32
Deepening in VAT	43
Issues in U.S. International Tax Law and Policy	62
Tax and Development	38
Simulated Tax Treaty Negotiations (2 courses)	23
Investment Tax Planning and Recent Trends in International Tax Law: European Union and Latin America	54
Selected Issues in EU Tax Law	37
Seminar on European Tax Law	11
Colloquium on European and International Tax Law (2 courses)	21
Tax Obstacles to International Economic Activity	13
Introduction to Common Law from a Tax Law Perspective	26
Jurisprudential Perspectives of Taxation Law	15
Tax Law in the Global Trade Context	29
Transfer Pricing: Principles and Practice	34
US State Taxation of Foreign Taxpayers in the Digital Economy	41
Corporate Tax Law for Finance and Accounting	146
Seminar on Business Tax Law in the Form of Simulated Client Meetings	24
European Value Added Tax – Current Issues and Future Developments (2 courses)	25

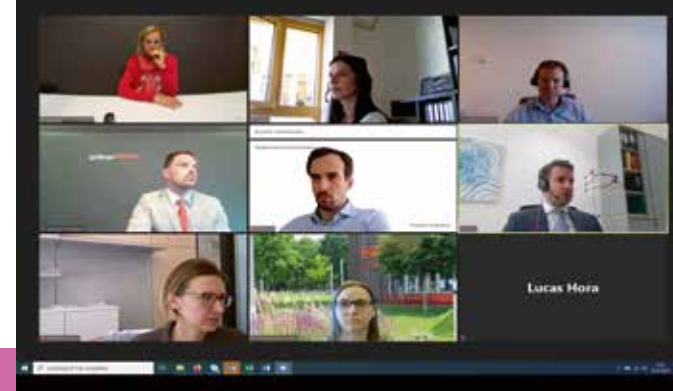
## Special Activities Offered to Students

### EUCOTAX

Every year, six of our Institute's best students participate in the EUCOTAX program (European and US Universities Cooperating on Taxes). EUCOTAX is a network consisting of the tax law institutes of universities in Paris (1 Panthéon-Sorbonne), Uppsala (Uppsala Universitet), Tilburg (Tilburg University), Leuven (Katholieke Universiteit Leuven), Washington DC (Georgetown University), Budapest (Corvinus Egyetem), Rome (LUISS Guido Carli), Osnabrück (Universität Osnabrück), Lodz (Uniwersytet Łódzki), Warsaw (Uniwersytet Warszawski), Zürich (Universität Zürich), St. Gallen (Universität St. Gallen), Valencia (Universitat de València), and Vienna (WU). In academic year 2020/21, the EUCOTAX Wintercourse was to be held in Uppsala from April 8 to 15, 2021. However, due to COVID-19, it turned out to be an "online Wintercourse". The general topic was "Neutrality and Business Taxation in a Post-BEPS/ATAD/Corona World". Dr. Rita Szudoczky, Svitlana Buriak, and Christian Knotzer supported and supervised our students (Linda Kligenbrunner, Cornelia Maitz, Dejan Panic, Victoria Schmidt, Melina Still, and Harald Walch). Finally, during the EUCOTAX Wintercourse, the students from all fourteen EUCOTAX universities presented and compared their research results in workshops and reported on their findings. After one week of intensive work, the students gained not only deeper knowledge of their subjects, but also many new friends from different parts of the world.

The student team for the EUCOTAX Wintercourse 2021/22 was selected in June 2021.

# 3



## TEACHING

### International and European Tax Moot Court 2020/21

In 2021, we once again took part in the International and European Tax Moot Court organized by the Catholic University of Leuven (Belgium). The competition was to be held in Leuven from March 29 to April 2, 2021. Due to the COVID-19 pandemic, the final in its planned format had to be called off. Instead of pleading in Leuven physically, all teams held their pleadings online via MS Teams. After qualifying for the oral round, our team reached twelfth place overall.

A Moot Court is a fictitious court, where teams of students play the roles of plaintiff and defendant. Prof. Claus Staringer and Theres Neumüller supported and supervised our students (Melanie Burger, Yvonne Emsenhuber, Nicole Schrammel, and Jakob Schreiner). Like on the EUCOTAX program, the participants enjoyed language training provided by Kurt Ubelhoer. Furthermore, the students who participate in the Moot Court or the EUCOTAX program may write their Master or Bachelor theses based on the topics of the Moot Court or the EUCOTAX program. The student team for the 2021/22 International and European Tax Moot Court was selected in June 2021.

### Master Welcome Reception

With just over 23,000 students, WU is a very large university. Establishing close relationships with our students is therefore a priority. Several initiatives have been taken by our Institute to achieve this goal. One initiative is our annual Welcome Reception.

We invite all new students on the Master programs "Business Law" and "Taxation and Accounting" to a Welcome Reception. In addition to presenting the regular lecture pro-

gram, we familiarize them with our research facilities in the library and offer them the opportunity to participate in special activities in teaching and research. This year the Welcome Reception took place virtually on October 13, 2020.

### Career Prospects for Students

On May 11, 2021, our Institute invited students to attend the panel discussion "Tax Lawyer" together with Binder Grösswang, bpv Hügel, Freshfields Bruckhaus Deringer, and LeitnerLaw on career prospects for our students in law firms. The law firms talked about the role tax law has in their daily working life and students had the opportunity to talk to experienced practitioners about current and future issues and developments regarding this topic. This event took place in a virtual format. The audience had the opportunity to ask questions through the discussion. After the official part virtual breakout rooms were organized to enable personal contact between the students and the firms on an informal and individual basis. The event was very well received by the students.

### Colloquium on European and International Tax Law

The Institute for Austrian and International Tax Law continued the prestigious colloquium series on "Current Developments in European and International Tax Law". Numerous distinguished scholars were invited to give presentations for selected students as well as for practitioners and other researchers. As the topics of each colloquium are selected just a few weeks before the actual seminar date, discussions are always up to date and also deal with the most recent cases of the Court of Justice of the European Union (CJEU). Due to COVID-19, all colloquiums took place in a virtual format this academic year.



### Speakers and Topics of the Colloquium Series in Academic Year 2020/21

October 19, 2020

- Monique van Herksen (Simmons & Simmons): Developments in the Exchange of Information and Transfer Pricing
- Svetislav V. Kostić (University of Belgrade): International Taxation and the Movement of Peoples

November 16, 2020

- Andreas Kortendick (Schnittker Möllmann Partners): Cross Border Carry. Carried Interest Taxation of International PE Fund Teams
- Paolo Ludovici (Gatti Pavesi Bianchi Ludovici): International Tax and High Net Worth Individuals

January 11, 2021

- Aurelio Massimiano (Maisto e Associati): DAC 6: Special Focus on Transfer Pricing Hallmarks (Not Only for Banks)
- Walter Vigo (Unicredit): DAC 6: Practical Issues of Implementation for a Multinational Bank

March 22, 2021

- John Vella (University of Oxford): Taxing Profit in a Global Economy
- Graeme Alan Wood (Procter & Gamble), Giorgia Maffini (PwC): Pillar One – Abandonment or Reinforcement of the Arm's Length Standard?

May 3, 2021

- Alice Pirlot (University of Oxford): Carbon Border Adjustment Measures: A Multi-Purpose Concept?
- Alessandro Bucchieri (Enel Group): Main Challenges for Intra-Group Financing in Light of New OECD Guidance

June 7, 2021

- Christina HJI Panayi (Queen Mary University of London): EU Corporate Tax Law in the Post-Brexit Era: New Perspectives
- Jan Dierk Becker (PwC): Tax Consequences of Digitized Business Models

### Seminar in Cooperation with EY

The seminar on Austrian and International Business Tax Law took place again in the fall term of 2020/21 in cooperation with EY. Under the supervision of Prof. Alexander Rust, Master students had the possibility to explore the daily work of tax advisers by analyzing abstracted case studies which the tax advisory firm was working on. The tax law issues were discussed together in simulated client meetings. The students then developed their own solution proposals in small groups with the help of the course instructor and EY advisers, and then presented them in a final discussion.

### Federal Ministry of Finance Cooperation – Active Sourcing

In academic year 2020/21, the Institute for Austrian and International Tax Law and the Federal Ministry of Finance continued their cooperation with the objective of finding talents in the field of tax law. One Bachelor thesis was called for tender in cooperation with the Federal Ministry of Finance in spring 2021. The lecture “WU-BMF Seminar on Corporate Tax Law” was held again in the winter term 2020/21. Tax officials from the Ministry of Finance provided case studies and Dr. Daniel Blum provided the theoretical input.

### Traineeships at the Federal Tax Court

The Federal Tax Court offered two of our best students internships in summer 2021. After a comprehensive application procedure, the selected students have gained inside knowledge of the daily activities at the Federal Tax Court. Furthermore, the students were also able to see how to apply studies in practice.

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## TEACHING

### PwC Best Bachelor Thesis in Tax Law

On January 19, 2021, the Institute, in cooperation with PwC, conferred the PwC Best Bachelor Thesis in Tax Law award on one student for her brilliant Bachelor thesis, written in academic year 2019/20. The PwC Best Bachelor Thesis Award went to Julia Winkler for her Bachelor Thesis on "Der Substanznachweis bei Auslandsgesellschaften".

Furthermore, two Bachelor theses and two Master theses were called for tender in cooperation with PwC in fall 2020. The bachelor theses were presented virtually on March 15, 2021, and the master theses were presented on June 22, 2021, to the experts of PwC.

### TPA Best Presentation Award

Once again, we honored those students who gave the best presentations at our seminars "Advanced Topics in Tax Law": The TPA Best Presentation Award went to Annabella Barbic, Valerie-Cecile Ettinger, Moritz Hecht, Paul Hecht, Jannis Krenn, and Anna Maria Madlener for the fall term and to Hauke Johannes Hackmann, Tobias Huber, Lena Krämer, Benjamin Stangar, Lara Nathalie Strobl, and Leonhard Winkelbauer for the spring term. The winners were officially announced at the ceremony for the TPA Best Presentation Award on June 24, 2021, organized in cooperation with TPA.

### EY Bachelor Tax Challenge, Tax Professional of the Year

Within the EY Tax Challenge, five Bachelor theses were called for tender in cooperation with EY. These theses were based on case studies of practical importance and involve current issues of tax law. The authors of the best theses were selected to participate in the EY Tax Challenge. Similarly, the EY Tax Professional of the Year program gives students the opportunity to research important topics for tax law practice in the context of their Master theses. Four topics were called for tender which are simultaneously supported by both the Institute's research staff as well as practitioners from EY. After completing the theses, the author of the best thesis was selected to take part in the EY Challenge "Young Tax Professional of the Year" program.

### Procter & Gamble Bachelor and Master Theses

Within this program, five Bachelor theses and four Master theses in the field of International Tax Law and Transfer Pricing were called for tender in cooperation with P&G. The students were supported both by research staff of the Institute and P&G tax managers, who are based worldwide. The Bachelor and Master theses were presented online via MS Teams to the experts of Procter & Gamble on June 23, 2021.



## KPMG-WU Workshop on Corporate Tax Law

In November and December 2020 and March and May 2021, a special course program on recent developments in corporate tax law took place again, organized jointly by KPMG and the Institute for Austrian and International Tax Law.

Each session of this course was prepared by a member of our research team together with a practitioner from KPMG. The aim of this series of workshops is to exchange ideas between academia and practitioners for the benefit of all participants, whether students, tax experts, or researchers. This academic year all KPMG-WU Workshops took place in a virtual format. These workshops will continue in the upcoming academic year.

Publications  
2020/21

### Speakers and Topics of the KPMG-WU Workshops in 2020/21

November 9, 2020

- Katharina Moldaschl, Dr. Katharina Daxkobler: Die steuerliche Behandlung von Stock Option Programmen für Mitarbeiter/innen

December 14, 2020

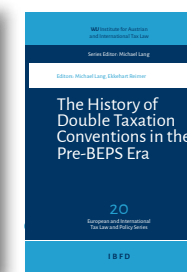
- Martin Klokar, Katrin Postlmayr: Verlustrücktrag und COVID-19-Rücklage

March 15, 2021

- Christina Pollak, Draga Turic: Die umsatzsteuerliche Behandlung von Plattformen mit Schwerpunkt auf sonstigen Leistungen und Einfuhrversandhandel – Theorie und Praxis

May 10, 2021

- Markus Mittendorfer, Dr. Florian Brugger: § 12a KStG: Die neue Zinsschranke im österreichischen Körperschaftsteuergesetz



# 3



## TEACHING

### LL.M. Program in International Tax Law

Our Institute has offered an LL.M. Program in International Tax Law since 1999. The program is a joint activity with the Akademie der Steuerberater und Wirtschaftsprüfer and has a formidable reputation worldwide. In academic year 2020/21, a full-time program was launched. Both this full-time course and the part-time 2019/21 course finished in June 2021. In September 2021, another full-time and part-time program started with 50 students in total. The applicants came from 34 different countries, 59% from outside Europe. A Welcome Reception was held on September 9, 2021, for all new students.

#### LL.M. International Tax Law Faculty 2020/21

Reuven Avi-Yonah • Tomas Balco • Peter Barnes • Ilan Benshalom • Daniel Blum • Yariv Brauner • Giammarco Cottani • Wei Cui • Marlies De Ruiter • Kasper Dziurdz • David Eisendle • Chris Evans • Riel Franzsen • Alfredo Garcia Prats • Heinz Jirousek • Rita Julien • Liselott Kana • Erik Kemmeren • Christian Kersting • Georg Kofler • Rick Krever • Michael Lang • Helmut Loukota • Richard Lyal • Guglielmo Maisto • Caroline Malcolm • Christoph Marchgraber • Geerten Michielse • Jeffrey Owens • Raffaele Petruzzi • Ekkehart Reimer • Robert Risse • Alexander Rust • Jacques Sasseville • Bernhard Schima • Wolfgang Schön • Madeleine Simonek • Christoph Spengel • Franz Philipp Sutter • Rita Szudoczky • Edoardo Traversa • Bertil Wiman • Carsten Zatschler • Eric Zolt

### Alumni

A total of 827 students have graduated from our LL.M. Program in International Tax Law since the first courses started in 1999. They continue to benefit from an enduring worldwide network.

### Klaus Vogel Lecture

Prof. Klaus Vogel, who died in December 2007, was not only an honorary doctor of WU but also supported the LL.M. Program from its inception. The students greatly appreciated his lectures. In his honor, a Klaus Vogel Lecture was held for the first time on October 25, 2007, in cooperation with PwC Germany. The 2020 lecture was delivered on September 11 by Prof. Stef van Weeghel, University of Amsterdam, on "Tax and Investment Treaties: A World to Explore!" and commented on by Dr. Arno Gildemeister.

### Job Fair

Hosted by Prof. Michael Lang, the traditional Job Fair took place online via Zoom exclusively for the current LL.M. students. It was a unique opportunity to get in touch with the following leading firms: Grant Thornton, Henkel, LeitnerLeitner, PwC, and TPA.



# LL.M. Graduates from all over the world





# RESEARCH ACTIVITIES

## Publications in Academic Year 2020/21

### Prof. Georg Kofler



- Verfassungsrechtliche Vorgaben für Abweichungen von der BAO, in Holoubek/Lang (eds), Sonderverfahrensrecht, Linde, forthcoming.
- Austrian Branch Report (with Veronika Daurer, Gunter Mayr), in IFA (ed), Big Data and Tax – Domestic and International Taxation of Data Driven Business, CDFI 2021, Sdu Uitgevers, forthcoming.
- Commentary on Article 3(1)(e) (International Traffic), in Reimer/Rust (eds), Klaus Vogel on Double Taxation Conventions, Fifth Edition, Wolters Kluwer, forthcoming.
- Commentary on Article 8 (International Shipping and Air Transport), in Reimer/Rust (eds), Klaus Vogel on Double Taxation Conventions, Fifth Edition, Wolters Kluwer, forthcoming.
- Commentary on Article 9 (Associated Enterprises) (with Jens Wittendorf), in Reimer/Rust (eds), Klaus Vogel on Double Taxation Conventions, Fifth Edition, Wolters Kluwer, forthcoming.
- Method Article and European Union Law (with Nicholas Pacher), in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer (eds), Methods to Avoid Double Taxation, IBFD, forthcoming.
- The Apple State Aid Case: T-778/16 and T-892/16, Apple Sales International and Apple Operations Europe v. European Commission, in Kofler/Lang/Rust/Schuch/Spies/Staringer (eds), CJEU – Recent Developments in Direct Taxation 2020, Linde, forthcoming.
- The Future of Digital Services Taxes, EC Tax Review 2021, 50.
- UmgrStG: Rechtsprechungsübersicht 2020, GES 2021, 40.

- §§ 1 bis 6 (Verschmelzung) (with Martin Six), §§ 39 bis 45 (with Petra Hübner-Schwarzinger), in Kofler (ed), Umgründungssteuergesetz – Jahreskommentar, Tenth Edition, 2021.
- Zur Verfassungswidrigkeit des Abzugsverbots für Sozialplanzahlungen (with Peter Bräumann, Michael Tumpel), SWK 2020, 1354.
- Das DBA Österreich – Liechtenstein im Lichte des MLI, SWI 2020, 601.
- Schadenersatz und Veranlassungszusammenhang, SWK 2020, 392.
- Unlimited Adjustments: Some Reflections on Transfer Pricing, General Anti-Avoidance and Controlled Foreign Company Rules, and the “Saving Clause” (with Isabel Verlinden), BIT 2020, 269.
- COVID-19 und Vollzug des Epidemierechts: Finanzausgleichsrechtliche Kostentragung im Bundesstaat und § 36 Abs 1 lit m Epidemiegesezt 1950 (with Peter Bräumann, Michael Tumpel), StAW 2020, 121.
- Zur Verfassungswidrigkeit des Abzugsverbots für beendigungskausale Abfertigungszahlungen aus Sozialplänen (with Peter Bräumann, Michael Tumpel), StAW 2020, 93.
- Internationales Steuerrecht (with Gustav Wurm), in Bergmann/Kalss (eds), Rechtsformwahl, 2020, 963.
- UmgrStG: Rechtsprechungsübersicht 2019, GES 2020, 36.
- EU Power to Tax: Competences in the Area of Direct Taxation, in Panayi/Haslehner/Traversa (eds), Research Handbook on European Union Taxation Law, 2020, 11.
- Finanz-Verfassungsgesetz, in Kneihls/Lienbacher (eds), Rill-Schäffer-Kommentar zum Bundesverfassungsrecht, 2020.
- Antikritisches zur Gruppenbesteuerung, in Kanduth-Kristen/Urnik/Fritz-Schmied (eds), Herausforderungen im Unternehmenssteuerrecht und in der Rechnungslegung, Gedenkschrift Herbert Kofler, 2020, 59.
- EU Report (with Alfredo Garcia Prats, Werner Haslehner, Volker Heydt, Eric Kemmeren, João Nogueira, Pasquale Pistone, Stella Raventos-Calvo, Emmanuel Raigneard de la Blétière, Isabelle Richelle, Alexander Rust, Rupert Shiers, Piergiorgio Valente), in IFA (ed), Reconstructing the Treaty Network, 2020, 53.
- Handbuch Betriebsaufgabe und Wechsel der Gewinnermittlung (with Sabine Urnik, Eva Rohn), Linde, Vienna, 2020.
- Die neue Hinzurechnungsbesteuerung in Österreich, in Seer/Lüdicke/Rasch (eds), Globalisiertes Steuerrecht – Anspruch und Verantwortung, Festschrift für Heinz-Klaus Kroppem zum 60. Geburtstag, 2020, 615.

### Prof. Michael Lang



- Die Durchbrechung der Rechtskraft im Einkommensteuerrecht (with Nicholas Pacher), in Holoubek/Lang (eds), Sonderverfahrensrecht, Linde, forthcoming.
- Wirtschaftslenkung und Finanzverfassung, in Holoubek/Kahl/Lienbacher (eds), Wirtschaftsverfassungsrecht, Verlag Österreich, forthcoming.
- Interpretation of Double Taxation Conventions – The Judgement of the German Federal Fiscal Court (Bundesfinanzhof) in the Light of the Designer Case, in Kukulski/Şek (eds), Challenges of Contemporary Tax Law, Lodz University Press, forthcoming.
- Die Anrechnung ausländischer Steuern auf die Gewerbesteuer, ISTR 2021, 584.
- Einkünfte aus öffentlichen Kassen und die Methoden zur Vermeidung der Doppelbesteuerung nach dem DBA Österreich-Schweiz, SWI 2021, 346.
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- Das Wohlverhaltensgesetz aus rechtspolitischer und verfassungsrechtlicher Sicht (II) (with Nicholas Pacher), SWK 2021, 433.
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- Befristete Arbeitsverhältnisse an Universitäten – Die Neuregelung des § 109 UG, zfhr 2021, 79.
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- Fixkostenzuschuss II und Missbrauch im Sinne des § 22 BAO, SWK 2020, 1416.
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- Das Verhältnis zwischen der Nichtigerklärung von Beurteilungen (§ 73 UG) und dem Widerruf akademischer Grade und Bezeichnungen (§ 89 UG), *zFhR* 2020, 159.
- Rechtsmissbrauch im Abgabenverfahrensrecht?, *AVR* 2020, 158.
- Die wirtschaftliche Betrachtungsweise im Steuerrecht, in *WiR - Studiengesellschaft für Wirtschaft und Recht* (ed), *Die wirtschaftliche Betrachtungsweise*, 2020, 33.
- DBA-Auslegung nach der Wiener Vertragsrechtskonvention versus nach Art. 3 Abs. 2 OECD-MA?, in *Seer/Lüdicke+/Rasch* (eds), *Globalisiertes Steuerrecht – Anspruch und Verantwortung*, *Festschrift für Heinz-Klaus Kroppen zum 60. Geburtstag*, 2020, 667.
- Die Auslegung von Doppelbesteuerungsabkommen als Problem der Planungssicherheit bei grenzüberschreitenden Sachverhalten, in *Gosch/Grotherr/Bergmann* (eds), *Steuerplanung und Compliance*, 2020, 1865.
- Can Law Regulate its Own Interpretation?, in *Brauner* (ed), *Research Handbook on International Taxation*, 2020, 174.

### Prof. Alexander Rust



- International Tax Law, in *Tietje/Nowrot* (eds), *International Economic Law*, De Gruyter, forthcoming.
- Commentary on Art. 1 (Persons Covered), in *Reimer/Rust* (eds), *Klaus Vogel on Double Taxation Conventions*, Fifth Edition, Wolters Kluwer, forthcoming.
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- Commentary on Art. 21 (Other Income), in *Reimer/Rust* (eds), *Klaus Vogel on Double Taxation Conventions*, Fifth Edition, Wolters Kluwer, forthcoming.
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- Commentary on Art. 21 (Other Income), in *Ismer* (ed), *Vogel/Lehner*, *Commentary on Double Taxation Conventions*, 2021, 2031.
- Commentary on Art. 24 (Non-Discrimination), in *Ismer* (ed), *Vogel/Lehner*, *Commentary on Double Taxation Conventions*, 2021, 2277.
- Is a Soccer Referee a Sportsperson? Do All the Activities of a Company Organizing Concerts Fall Within the Ambit of Article 17, in *Lang/Rust/Owens/Pistone/Schuch/Staringer/Storck/Essers/Kemmeren/Öner/Smit* (eds), *Tax Treaty Case Law Around the Globe* 2019, 2020, 295.
- Art 10 Par 2 and Art 11 Par 2 OECD Model Convention: Direct Applicability, Refund and the Competence of Competent Authorities to Settle the Mode of Application (with Ioana-Felicia Rosca), in *Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer* (eds), *Tax Treaties and Procedural Law*, 2020, 107.
- Germany: C-480/17 Montag, C-135/17 X GmbH, C-685/16 EV, in *Lang/Pistone/Rust/Schuch/Staringer/Storck* (eds), *CJEU – Recent Developments in Direct Taxation* 2019, 2020, 125.
- Controlled Foreign Company Rule (Articles 7 and 8 ATAD), in *Haslehner/Kofler/Pantazatou/Rust* (eds), *A Guide to the Anti-Tax Avoidance Directive*, 2020, 174.

### Prof. Josef Schuch



- Identical or Substantially Similar Tax According to Art 2 Par 4 OECD Model Convention 1982 and 2017 (with Shimmeng Lan), in *Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer* (eds), *Taxes Covered under Article 2 of the OECD Model. The Scope of Tax Treaties in a Dynamic Global Environment of Newly Created Taxes*, 2021, 115.
- Mutual Assistance Procedure and Domestic Law (with Marta Ołowska), in *Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer* (eds), *Tax Treaties and Procedural Law*, 2020, 207.





# RESEARCH ACTIVITIES

## Prof. Karoline Spies



- CJEU VAT Case Law in 2020: Evergreens, Revivals and New Trends, *Intertax* 2021, forthcoming.
- Die umsatzsteuerlichen Änderungen bei Warenkäufen über Plattformen: Online-Plattformen als Steuerschuldner (with Christina Pollak), *ecolex* 2021, forthcoming.
- How do you do it? MDR in different EU Member States (with Izabela Andrzejewska-Czernek and others), *European Taxation* 2021, forthcoming.
- Umsatzsteuer beim Unternehmenskauf, in Bertl/Eberhartinger/Egger/Hirschler/Kalss/Kofler/Lang/Rust/Schuch/Spies/Staringer (eds), *Kauf und Verkauf von Unternehmen (Wiener Bilanzrechtstage)*, Linde, forthcoming.
- Joint and Several Liability Rules in EU VAT Law, in Kofler/Lang/Rust/Schuch/Spies/Staringer (eds), *CJEU – Recent Developments in Value Added Tax 2020*, Linde, forthcoming.
- VAT Adjustments (with Kathryn James), in van Brederode (ed), *Virtues and Fallacies of VAT: an Evaluation after 50 years*, Wolters Kluwer, forthcoming.
- VAT and Transfer Pricing (with Kathryn James), in van Brederode (ed), *Virtues and Fallacies of VAT: an Evaluation after 50 years*, Wolters Kluwer, forthcoming.
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- EuGH-Rsp zur Umsatzsteuer: Wann begründet eine Tochtergesellschaft eine feste Niederlassung? (with Markus Mittendorfer, Christina Pollak, Annika Streicher), *ecolex* 2020, 1102.
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- EuGH-Rsp zur Umsatzsteuer: Personalentsendung von Mutter- an Tochtergesellschaft als umsatzsteuerbarer Vorgang? (with Christina Pollak, Selina Siller, Annika Streicher), *ecolex* 2020, 931.
- Missglücktes Dreiecksgeschäft infolge mangelhafter Rechnung (with Katrin Allram), *BFGjournal* 2020, 323.
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- Verfahrensrecht und Amtshilfe (with Viktoria Wöhrer), in Bergmann/Gläser/Pinetz/Stanek (eds), *Hinzurechnungsbesteuerung und Methodenwechsel – Kommentar zu § 10a KStG*, 2020, 361.
- Der neue Quick Fix für Reihengeschäfte, in Achatz/Tumpel/Bieber (eds), *Neuerungen bei innergemeinschaftlichen Umsätzen*, 2020, 17.
- § 6 Z 4-Z 6 EU-MPFG: Verlustnutzungsmodell, Einkünfteumwandlung, Round Tripping (with Viktoria Wöhrer), in Bergmann/Pinetz/Spies (eds), *EU-Meldepflichtgesetz – Kommentar*, 2020, 322.
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- Hybrid Entities and Anti-Hybrid Rules in the EU ATAD (Article 9 and 9a ATAD), in Haslehner/Pantazatou/Kofler/Rust (eds), *A Guide to the Anti-Tax Avoidance Directive*, 2020, 229.
- CJEU Case Law on Taxable Persons and Related Issues 2019 (with Sebastian Pfeiffer), in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer/Pillet (eds), *CJEU – Recent Developments in Value Added Tax 2019*, 2020, 127.
- Mutual Assistance in Direct Tax Matters (with Michael Schilcher & Sabine Zirngast), in Lang/Pistone/Schuch/Staringer/Rust/Kofler/Spies (eds), *Introduction to European Tax Law on Direct Taxation*, Sixth Edition, 2020, 249.

## Prof. Claus Staringer



- Die Entstehung des Abgabenspruchs nach der BAO und nach einzelnen Steuergesetzen (with Stefanie Gombotz), in Holoubek/Lang (eds), *Sonderverfahrensrecht*, Linde, forthcoming.
- Abzinsung von Rückstellungen: Ausuferung des rechtspolitischen Gestaltungsspielraums des Steuergesetzgebers? (with Martin Klokár), *ÖStZ* 2021, forthcoming.
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- Internationale Vollstreckung von Steuern, in Holoubek Lang (eds), *Verwaltungs- und Abgabenvollstreckung*, 2021, 305.
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- Diverted Profits Taxes and Article 2 of the OECD Model Convention 2017 (with Martha Caziero), in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer (eds), *Taxes Covered under Article 2 of the OECD Model. The Scope of Tax Treaties in a Dynamic Global Environment of Newly Created Taxes*, 2021, 143.
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- Austria: Vorarlberger Landes- und Hypothekbank AG (C-625/17) in Lang/Pistone/Rust/Schuch/Staringer/Stork (eds), *CJEU – Recent Developments in Direct Taxation 2019*, 2020, 157.

## Prof. Pasquale Pistone



- General Report (with Nevja Čičin-Šain), in Kofler/Lang/Owens/Pistone/Rust/Schuch/Spies/Staringer, *The Implementation and Lasting Effects of the Multilateral Instrument*, IBFD, forthcoming.
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- *Diritto Tributario Internazionale*, Third Edition, Giappichelli, Turin, 2021.
- La protection internationale des Droits des Contribuables (with Juliane Kokott, Robin Miller), *Revue de droit international et de droit comparé*, 2021, 157.
- Sulla compatibilità dell'imposte settoriali sul fatturato con il diritto dell'Unione Europea, *Diritto e Pratica Tributaria Internazionale* 2021, 780.
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- The Way Ahead: Policy Consistency and Sustainability of the GLoBE Proposal (with Alessandro Turina), in Perdelwitz/Turina (eds), *Global Minimum Taxation? An Analysis of the Global Anti-Base Erosion Initiative*, 2021, 415.
- Digital taxes and Article 2 OECD Model Convention 2017 (with Andreas Ullmann), in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer (eds), *Taxes Covered under Article 2 of the OECD Model*, 2021, 167.
- Commentary on Article 15 (Income from Employment), in Pistone (ed), *Global Tax Treaty Commentaries*, 2021.
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- Völkerrecht und Steuerrecht – Das Projekt der International Law Association zum Internationales Steuerrecht – Phase 1: Die Rechte der Steuerpflichtigen (with Juliane Kokott, Robin Miller, Steuer und Wirtschaft 2020, 193.
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- Arbitration Procedure and the Implementation of Arbitral Awards in Domestic Law (with Angelina Papulova), in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer (eds), *Tax Treaties and Procedural Law*, 2020, 177.
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- Coordination of Tax Laws and Tax Policies in the EU (with Rita Szudoczky), in Lang/Pistone/Schuch/Staringer/Rust/Kofler/Spies (eds), *Introduction to European Tax Law on Direct Taxation*, Sixth Edition, 2020, 37.

### Prof. Heinz Jirousek



- Pillar Two – Die subject to tax rule (STTR), *ÖStZ* 2021, 55.
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### Prof. Helmut Loukota



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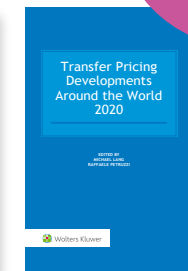
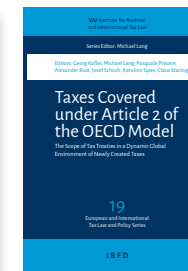
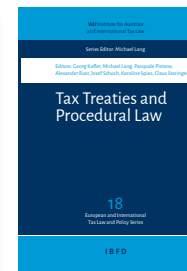
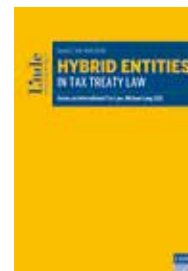
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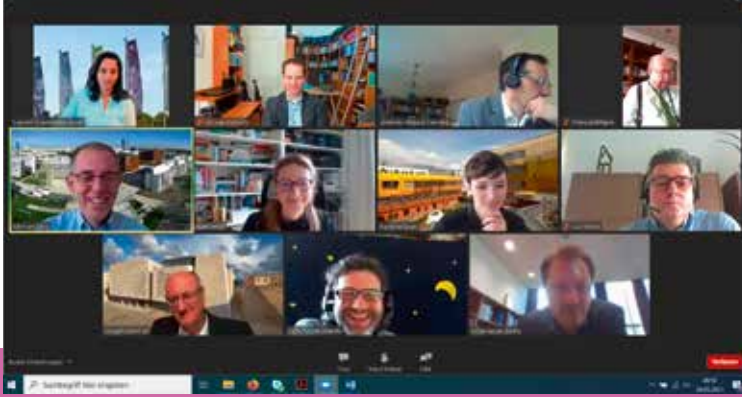


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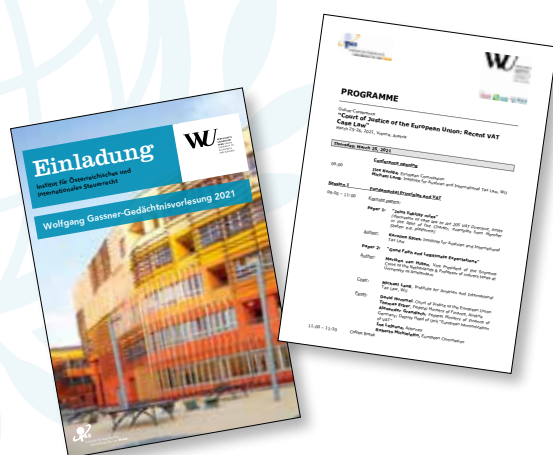
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# 4



## RESEARCH ACTIVITIES

### Doctoral Programs

#### Doctoral Program in International Business Taxation (DIBT)

The Doctoral Program in International Business Taxation (DIBT) is jointly run by the Institute for Austrian and International Tax Law, the Business Taxation Group, and the Department of Economics, WU. It offers an excellent and unique doctoral education to outstanding students from all over the world, fully preparing them to conduct research on international business taxation.

DIBT provides interdisciplinary training in business, economics, law, and tax psychology. It is a three-year program designed to prepare an elite group of young tax researchers for future academic careers in their home countries and throughout the world. At the end of the program, graduates are awarded a PhD degree in International Business Taxation.

DIBT is in part funded through the docfunds program of the Austrian Science Fund (FWF), having been one of only four programs chosen to receive this prestigious funding after a competitive selection process in February 2020. The duration of the docfunds funding is four years, having started in September 2020. The program is open to students from all countries worldwide.

In September 2020, five young researchers were admitted to the program from a total of 63 applicants. A further five students have been selected for admission to the program in September 2021. Altogether, there are now 63 DIBT students and alumni from Albania, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, China, France, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Japan, Malta, Mexico, the Netherlands, New Zealand, Poland, Republic of Korea, Romania, the Russian Federation, South Africa, Turkey, Ukraine, the USA, and Venezuela.

### Doctoral Programs in Business and Economics and in Business Law

Each year, a very limited number of doctoral candidates are admitted to our Institute. It usually takes our young academics three to four years to complete their doctoral theses in either Business and Economics, or Business Law.

#### Recently Approved Doctoral Theses

- Dr. Lisa Maria Ramharter: Eigene Anteile im Steuerrecht
- Dr. Xue Peng: Location-Specific Advantages: Modified Application of the Arm's Length Principle in a Knowledge-Based Economy
- Dr. Robin Damberger: CO2-Steuern – Eine rechtliche Einordnung möglicher Ausgestaltungsoptionen in Österreich
- Maximilian Zieser, PhD: Trust, Power and Cooperation: Assessing Novel Approaches to Tax Administration
- Ivan Lazarov, PhD: Anti-Tax-Avoidance in Corporate Taxation under EU Law: The Internal Market Narrative
- Dr. Florian Navisotschnigg: Substance in International Tax Law: DEMPE-Approach, Substantial Activity Requirement and Beneficial Ownership
- Marcio Henrique Sales Parada, PhD: Requirements for Efficient Mandatory Disclosure Rules on Potentially Risky Tax Planning
- Dr. Alexandra Miladinović: Selectivity and the Arm's Length Principle in EU State Aid Law
- Dr. Karol Adam Dziwiński: The DEMPE Concept and Intangibles – Definition, Practical Approach and Analysis in the Context of the License Model
- Yuchen Wu, PhD: Tax, Trust and Transparency



## Habilitations at our Institute

Habilitations are not an everyday business at our Institute. It was thus a great pleasure for us to have one in October 2020.

- Dr. Caroline Heber reported on October 7, 2020, on “Steuern wir in Richtung einer Fiskalunion? – Aktuelle Überlegungen zur verstärkten Zusammenarbeit im Unionsrecht” in order to get her *venia legendi*.

## Academic Awards

### Dr. Desiree Auer

- CERHA HEMPEL LAWard in der Kategorie Dissertation 2020
- Wolfgang Gassner-Wissenschaftspreis 2021

### Svitlana Buriak

- WU Research Award 2020

### Dr. Robin Damberger

- Wolfgang Gassner-Wissenschaftspreis 2021
- Förderpreis der Wiener Juristischen Gesellschaft

### Christina Dimitropoulou

- WU Research Award 2020

### Dr. Caroline Heber

- Wolfgang Gassner-Wissenschaftspreis 2021

### Dr. Raphael Holzinger

- Mitchell B. Carroll Prize 2020

### Markus Mittendorfer

- WU Research Award 2020

### Christina Pollak

- WU Research Award 2020

### Mario Riedl

- WU Research Award 2020

### Selina Siller

- WU Research Award 2020

### Prof. Karoline Spies

- Maurice Lauré Price 2020

### Annika Streicher

- WU Research Award 2020

## WU Global Tax Policy Center at the Institute for Austrian and International Tax Law

The WU GTPC was created in 2012 and is headed up by Prof. Jeffrey Owens. It has become one of the leading think tanks on the interface between tax policy, tax administration, tax law and technology. All WU GTPC events bring together tax policymakers, tax administrators, tax practitioners as well as researchers from around the globe. The Center provides a forum for discussions on tax policy formulation and implementation, drawing upon the experiences of developed and developing countries and economies in transition.

## Digital Economy Taxation Network (DET)

The WU GTPC program on Digital Economy Taxation Network was launched in 2017 (DET partners: CITACT- XMU, NUS, DFKI, TARC, University of Geneva, UNSW, SLS-P, USP, SUSS, CIAT, CATA, IOTA, KIPF, IDB, WB, IFS, and Revenu Québec) to study the impact of technology on policy and administration. Our 7th high-level conference on December 14 to 15, 2020, was held in Vienna and focused on “Digitalization of the Tax Function: The Perspective of Business and Tax Administration” with the aim of developing a better understanding of the challenges and opportunities the most advanced form of technology poses for tax compliance, from the perspective of both governments and businesses.

The workshop on “Developing a Digital Tax Administration’s Roadmap & a Digital Maturity Index” – a joint initiative of the WU Global Tax Policy Center and the WU Transfer Pricing Center – was held online on February 24, 2021, with over 80 participants from all over the world, representing academia, tax practice, and government institutions.

A number of joint meetings were organized with the IADB and World Bank on digital tax administration.

# 4



## RESEARCH ACTIVITIES

### Cooperative Compliance

In 2019, the WU GTPC set up a multi-stakeholder group to provide guidelines that could help countries and businesses design Cooperative Compliance programs. To achieve this, five working groups were created: (1) Identifying Criteria to Access Cooperative Compliance, (2) Developing Model Legislation, (3) Creating a Governance Framework for Tax Control and Risk Management, (4) Developing a Methodology to Measure Cost and Benefits, and (5) Communicating Cooperative Compliance and Obtaining Trust from Civil Society. All five working groups met online multiple times, including a conference on October 27 to 28, 2020, and on March 17, 2021. The final report was published with Wolters Kluwer in late summer 2021.

### Tax Transparency and Corruption

In 2019, a four-year program on tax and corruption was initiated by WU GTPC in collaboration with the United Nations Office on Drugs and Crime (UNODC), the World Bank, and the African Tax Institute (ATI), bringing together academia, business, and government to tackle corruption, bribery, money laundering, tax crimes, and other forms of illicit activities in Africa. The project is sponsored by the Siemens Integrity Initiative.

The second program in this series from 2019 to 2023 addresses the interaction between tax transparency and corruption from the perspective of tax administrators, FIU, policymakers, business, civil society, and academics, and involves three closely related modules:

- Establishing a Legal Framework for Cooperative Compliance and Promoting Tax Certainty.

- Increasing the Effectiveness of Government Actions to Counter Tax Evasion, Money Laundering, and Bribery.
- Removing Barriers to the Exchange of Information Within and Between Countries and Improving Transparency in Tax Planning.

This year's virtual conferences were held on September 23 to 24 and November 9 to 10, 2020, and examined all of these issues.

In order to maintain the momentum of the work, five focus groups, namely Beneficial Ownership, Client Attorney Privilege, Cooperative Compliance, Interagency Cooperation, and Unexplained Wealth Orders were created and had intensive virtual meetings.

The findings of these groups were presented in the online conference on July 14 to 15, 2021, and also contributed a chapter to a World Bank study (Enhancing Government Effectiveness and Transparency: The Fight against Corruption) on country experiences on interagency cooperation, which was published in fall 2020.

### Interaction of Tax, Investment, and Trade Issues

This is a joint research project with the United Nations Conference on Trade and Development (UNCTAD) and the UN Tax Committee (UNTC), which examines the interaction between tax, trade, and investment agreements. The project led to joint UNCTAD/WU GTPC policy guidelines were issued in spring 2021.



## Vienna Multi-Stakeholder Group on Improving Cross-Border Dispute Resolution

In 2019, the WU GTPC created a multi-stakeholder group to examine how to minimize and resolve cross-border tax disputes.

In this period, the work, which is carried out in close cooperation with the European Commission, focused on cross-border VAT disputes with the VAT group meeting multiple times, namely November 11, 2020, March 23, 2021, and May 17, 2021. A questionnaire was issued to determine the main causes of such disputes, including intra-EU community VAT disputes. It also examined the existing mechanisms for minimizing and resolving these disputes, as well as looking for innovative solutions, all of which will lead to the issuance of guidance for governments and business.

The WU GTPC team also contributed to the UN Handbook on Dispute Avoidance and Resolution. We also further developed the proposals for a New Institutional Framework that creates binding and non-binding mechanisms for supplementing MAP in tax treaties.

## Conference “Exploiting New Technologies to Transform the Approach to Transfer Pricing”

The conference, a joint initiative of the WU Global Tax Policy Center and the WU Transfer Pricing Center, was held online on April 19 to 20, 2021, with over 80 participants from all over the world, representing academia, tax practitioners, and government institutions.

The event focused on the potential of new technologies to transform the approach to transfer pricing analyses. The discussions examined on practical examples related to

data management, price setting, price testing, and benchmarking, as well as the availability of comparable information and documentation. Attention was also paid to the impact these technologies have on audit practices and managing cross-border disputes. The conference was part of a broader program on tax technology held as part of the Digital Economy Taxation Network, which brings together governments and business to discuss emerging issues in the area of tax and technology.

## Fireside Chats

This series of informal discussions, launched in 2012, involves a 90-minute chat between Prof. Jeffrey Owens and leading tax personalities, discussing issues that are currently preoccupying governments, business, and civil society. These chats are live-streamed. Due to COVID-19, all Fireside Chats took place in a virtual format.

### Speakers and Topics of the Fireside Chats in 2020/21

*November 19, 2020*

- Ine Lejeune, Karl-Heinz Haydl: Cross-border VAT Disputes: A Neglected Area

*January 13, 2021*

- Mick Keen: Rebellions, Rascals and Misfits and their Role in Tax Policy: A Historical Perspective on Future Tax Systems

*February 19, 2021*

- Chip Harter: Prospects for OECD Pillar 1 and Pillar 2 Negotiations in 2021

*June 17, 2021*

- Richard Bolwijn, Michael Lennard: Bridging the Policy Gaps between the Tax and Investment Communities

*September 14, 2021*

- Mick Moore: Tax Administrations in Africa: New Approaches for a New Era?

# 4



## RESEARCH ACTIVITIES

### WU Transfer Pricing Center at the Institute for Austrian and International Tax Law

Transfer pricing is one of the most relevant and challenging topics in the international tax environment. Increasing global trade and the role of multinational enterprises in the global economy have boosted its relevance. Most of the players traditionally interacting in this field have been international organizations, governments and tax administrations, the business community, and advisers. There is, however, an emerging need for the contribution of academia to these topics, in order to facilitate the link between pragmatic solutions and theoretical principles.

With this in mind, the WU Transfer Pricing Center was established to research, analyze, discuss, and teach transfer pricing topics. It positions itself as a global institution providing the missing nexus between theory and practice in approaching transfer pricing topics. The center combines both academic and practical perspectives and its approach is highly international and interdisciplinary. The center is led by Dr. Raffaele Petruzzi and Prof. Robert Risse.

### Global Transfer Pricing Conference “Transfer Pricing Developments Around the World”

In February 2021, the WU Transfer Pricing Center held its sixth Global Transfer Pricing Conference entitled “Transfer Pricing Developments Around the World”. About 180 international experts from tax practice, academia, and governmental institutions convened online from February 15 to 18, 2021, to share their knowledge of and vision for this topical area.

The sessions focused on regional transfer pricing developments (i.e. in the European Union, in the United States, and in developing countries and emerging economies) and on recent developments concerning specific topics (i.e. recent developments on the tax challenges for digitalizing the economy, on transfer pricing and COVID-19, on transfer pricing and simplification measures, as well as on transfer pricing and dispute resolutions). The impact and practical relevance of these developments were discussed in order to generate new ideas and provide further proposals for future areas of work. In order for the research results to be made available on a larger scale, a book will be published in fall 2021.

### Advanced Transfer Pricing Courses

The Advanced Transfer Pricing Courses, which cover general topics, specific topics, and benchmarking are organized annually by the WU Transfer Pricing Center at our Institute and were held online in 2021. These courses are an ideal platform for sharing the research results achieved by the center.

Lecturers for all courses are internationally renowned transfer pricing experts from academia, international organizations, the business community, government officials, and advisory firms, as well as senior researchers of the Institute.

- April 26 to May 7, 2021: Advanced Transfer Pricing Course (General Topics)
- July 5 to 9, 2021: Advanced Transfer Pricing Course (Benchmarking)
- September 20 to October 1, 2021: Advanced Transfer Pricing Course (Specific Topics)



## Workshops on Transfer Pricing

The WU Transfer Pricing Workshops offer a further opportunity to extend the knowledge on specific transfer pricing topics in an open atmosphere, with enough time set aside for questions and discussion. The workshop series has become a valuable extra source of information and is open to the public online via live stream free of charge.

### Speakers and Topics of the Transfer Pricing Workshops in 2020/21

October 8, 2020

- Oliver Wehnert, Manuel Taferner (EY): Managing Transfer Pricing Controversy Effectively

October 29, 2020

- Maik Heggmaier, Melanie Appuhn-Schneider, Hannah Gresch (WTS): Transfer Pricing and Financing: What's the Arm's Length Value of Money?

November 26, 2020

- Xavier Daluzeau, Céline Pasquier (CMS Francis Lefebvre Avocats), Eduardo Flöring (Gruenthal Group): DAC 6 and Transfer Pricing

December 17, 2020

- Svitlana Buriak, Gabriela Capristano Cardoso, Dr. Karol Adam Dziwiński, Sayee Prasanna (Institute for Austrian and International Tax Law, WU): The Transfer Pricing World in 2020 – A Review

January 20, 2021

- Rakesh Bhaskar (India), Gavin Hales (Canada), Giovana Portolese (Brazil), Stig Sollund (Norway), Dominic Vines (UK), Sing Yuan Yong (Singapore): The Transfer Pricing World in 2021 – The Tax Administrations' View

February 24, 2021

- Paolo Ludovici, Marco Striato (Gatti Pavesi Bianchi Ludovici), Giacomo Soldani (Essilor-Luxottica): COVID-19 and Transfer Pricing: The New Normal for Audit Readiness

### Speakers and Topics of the Transfer Pricing Workshops in 2020/21

March 18, 2021

- Rutger Hafkenscheid, Stephan Kraan, Quirijn Knab (Loyens & Loeff): The Use of Financial Modelling in Transfer Pricing

June 17, 2021

- Stefaan De Baets, Gilles Franssens, Jean-Philippe Van West (PwC): Reshaping the International Tax Scene: Transfer Pricing and Beyond

July 15, 2021

- Gianni De Robertis, Werner Rosar, Michel Braun (KPMG), Kathrin Reifenberg (L'Oréal): Business Restructuring: What it Takes to Successfully Manage the TP Challenges

September 9, 2021

- Karin Andorfer, Florian Henninger, Ralf Heussner, Rafal Sadowski (Deloitte): Intangibles in R&D-intensive Industries

## WU-TA Advanced Transfer Pricing Programme

The WU-TA Advanced Transfer Pricing Programme is offered by the WU Transfer Pricing Center at the Institute for Austrian and International Tax Law and the Tax Academy of Singapore, and took place from September 6 to 16, 2021, as an online event. The eighth half-day programme was facilitated by Dr. Raffaele Petruzzi, Prof. Alfred Storck, Dr. Raphael Holzinger, and Sayee Prasanna, as well as regional tax experts from international advisory firms, industry, and tax administrations.

This annual program provides participants with the latest update on international transfer pricing developments, as well as knowledge and insights to enable the handling of transfer pricing issues in specialized industries that are of relevance to the Asia-Pacific region. Workshops are held for all topics, enabling opportunities for rich discourse.

# 4



## RESEARCH ACTIVITIES

### Academic Conferences

#### Symposium "Abgrenzung Drittstaat zu Europäischer Union aus umsatzsteuerlicher Perspektive: Notwendigkeit oder Systembruch?"

The symposium entitled "Abgrenzung Drittstaat zu Europäischer Union aus umsatzsteuerlicher Perspektive: Notwendigkeit oder Systembruch?" took place on October 29, 2020, as a hybrid event and in cooperation with KPMG. The symposium focused on the topic of the demarcation between third countries and the European Union in the area of turnover tax and its consequences in terms of tax and procedural law. Enriched by current practical cases, the case law of the European Court of Justice and the Austrian courts was analyzed and the similarities and differences highlighted. Unsteady jurisprudence as well as changes initiated by EU legislators (quick fixes) pose challenges to the practitioners of the law. The conference focused on the lines of case law, the legal consequences, and the effects of current legislative changes at EU and national level, as well as the question of the need for reform of cross-border benefits between third countries and the European Union for both EU and national legislators.

#### Conference "Recent and Pending Cases at the CJEU on Direct Taxation"

The conference "Recent and Pending Cases at the CJEU on Direct Taxation" was held online from November 20 to 21, 2020. Distinguished experts from the countries in which the cases originated examined and discussed the interpretation of the fundamental freedoms in respect of direct taxation on the basis of recent CJEU judgments. Not only was the importance of pending cases at the CJEU to the EU Member States and third countries analyzed, but the background of recent CJEU decisions and their relevance for

the future was also discussed. In the final session, an expert panel provided the audience with interesting insights into recent trends in CJEU case law. "Recent Developments at the CJEU in Direct Taxation 2020" will be published in fall 2021 with Linde Verlag, Vienna.

#### Conference "Digitalisation of the Tax Function: The Perspective of Business and Tax Administration"

The conference "Digitalisation of the Tax Function: The Perspective of Business and Tax Administration" was held from December 14 to 15, 2020. The approach to the conference's topics was to focus on practical case studies and the experiences of different countries. The first day focused on the role of technology to achieve better compliance within companies and explore the links between tax and trade compliance measures. The second day examined how digital technologies can help with the effective delivery of the tax administration's services and with compliance in the area of VAT. Each session included one or two keynote presentations, which were followed by a panel discussion consisting of governments, international and regional organizations, businesses, and academics. A book containing the scientific output of this conference was published with Wolters Kluwer in late summer 2021.

#### Conference "Court of Justice of the European Union: Recent VAT Case Law"

From March 25 to 26, 2021, the conference "Court of Justice of the European Union: Recent VAT Case Law" was held for the eighth time and took place as an online event. This conference focused on recent case law of the Court of Justice in the area of indirect taxation, rendered in 2020. Expert panels consisting of leading academics, judges, legislators, and business representatives from all over Europe and beyond convened to analyze the judgments of the previous year. The first session was dedicated to "Fundamental Principles and VAT" and the second session focused on "Financial Services". The other sessions, each dealing with a different topic, thoroughly analyzed the case law. A book containing the scientific output of this conference will be published with Linde Verlag, Vienna, in fall 2021.





## Wolfgang Gassner Memorial Lecture

On April 26, 2021, the seventeenth memorial lecture in honor of Prof. Wolfgang Gassner was held virtually. Prof. Dr. Heribert Anzinger (Universität Ulm, Germany) gave a presentation on "Österreich auf dem Weg zur Einheitsbilanz – ein Vorbild für Europa?". After this lecture, comments from Prof. Claus Staringer on the topic were met with great interest by the audience. Finally, the "Wolfgang Gassner-Wissenschaftspreis 2021" was ceremoniously presented to the awardees.

## Conference "Tax Treaty Case Law Around the Globe"

2021 was a "Vienna year" again for the conference "Tax Treaty Case Law Around the Globe", which the Institute had the pleasure to host from May 6 to 7, 2021, as an online event. This conference was again jointly organized by the Institute for Austrian and International Tax Law, WU, and the European Tax College of Tilburg University, and alternates on an annual basis between Vienna and Tilburg. Academics and practitioners from 23 countries presented 40 of the most interesting recent court cases on tax treaty law of their domestic jurisdictions. The presentations were followed by active discussion. Practitioners and government representatives in particular valued and enjoyed the benefit of this conference: being updated on the most recent trends in treaty jurisprudence around the globe in just two days. The results of the conference will also be published in a book in fall 2021.

## Symposium on VAT "Outsourcing – ein 'altes' Thema mit neuem Potential?: Lösungsansätze in Wissenschaft und Praxis"

The symposium on VAT "Outsourcing – ein 'altes' Thema mit neuem Potential?: Lösungsansätze in Wissenschaft und Praxis" took place on May 18, 2021, via Zoom and in cooperation with KPMG. The symposium focused on the topic of outsourcing in VAT. Enriched by current practical cases, the case law of the European Court of Justice and the Austrian courts were analyzed and the characteristics of outsourcing in VAT were examined in various areas. The implementation of the VAT Directive in Austria poses challenges to le-

gal practitioners and leads to legal uncertainty. For this reason, the symposium focused on the lines of jurisprudence, the legal consequences, the efforts of current legislative changes at EU and national level, as well as the question of a need for reform for both EU and national legislators.

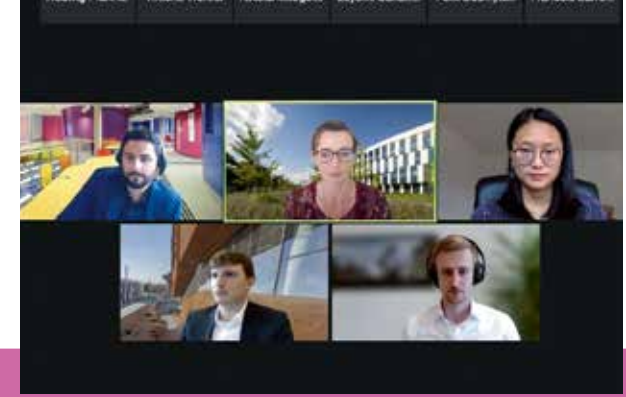
## 28th Viennese Symposium on International Tax Law

On June 14, 2021, the 28th Viennese Symposium on International Tax Law was held online and organized by our Institute in cooperation with the Austrian branch of the International Fiscal Association (IFA). The professors and research staff from our Institute presented the results of their research on the topic of "Methods to Avoid Double Taxation". The goal of tax treaties is to provide relief from double taxation. The residence state has the responsibility to take measures in that respect. Art 23 OECD Model Convention is the core provision for that purpose. The importance of this provision has often been underestimated. Contracting states can choose between the exemption method and the credit method. Both methods have different economic effects and they raise various interpretation problems. The symposium therefore, dealt with the analysis of Art 23 OECD MC. Publication of the book, which is currently being prepared, is keenly anticipated by an interested public.

## Conference "Mandatory Disclosure Rules"

The Institute for Austrian and International Tax Law, in cooperation with the Doctoral Program in International Business Taxation (DIBT), organized a conference on "Mandatory Disclosure Rules", which was held online from July 1 to 3, 2021. The conference focused on the implementation and effects of "Mandatory Disclosure Rules" (MDR) as proposed in the OECD report to BEPS Action 12 and comparable disclosure rules, both within the EU and in non-EU countries. 43 reporters from around the world shared their countries' positions and experiences regarding the specific implementation and impact of MDR on tax planning schemes, compliance, legislation, and the relationship between

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## RESEARCH ACTIVITIES

taxpayers, advisers, and tax authorities. Work is being carried out on a book which will make the results of the conference accessible to a wider audience. The conference was preceded by a “DIBT Doctorate Workshop” on the same topic, which gave selected PhD candidates in this area the opportunity to present their research to the scientific community and to receive valuable input from renowned academics as well as from fellow PhD candidates. The event was met with much interest and was a huge success.

### Symposium on Digital Taxation “Tax Law and Digitalization: How to Combine Legal Tech and Tax Tech?”

On September 13, 2021, our Institute organized and held the first Symposium on Digital Taxation on the topic “Tax Law and Digitalization: How to Combine Legal Tech and Tax Tech”. The team of speakers consisted of top-class representatives of the professional world, both from the IT and tax sector. Digital forms of communication give rise to social networks, establish trust between strangers, reduce transaction costs, put national borders behind them and establish new business models. These new business models are an enormous fiscal challenge but simultaneously big opportunities. The sharing economy revolts against traditional principles of public economic and tax law. The world of civil and tax law is evolving. The Digital Revolution reveals weaknesses in international tax law and challenges the methods of identifying taxpayers’ rights. Publication of the book is keenly anticipated by an interested public. The book will be published with Linde Verlag, Vienna, in 2022.

### Tax Lunch Talks

The well-known “Tax Lunch Talks” continued during academic year 2020/21. These events aim at encouraging interaction and cooperation between research staff, guest researchers at the Institute, and the LL.M. students. These regularly scheduled meetings generally start with a short lecture by an LL.M. student on recent developments in tax law in their home country. Our LL.M. students and researchers get to meet and chat in a more informal environment. All Tax Lunch Talks in academic year 2020/21 took place online.

#### Speakers and Topics of the Tax Lunch Talks in 2020/21

- November 4, 2020: Emilia Rebetetz (Switzerland): Corporate Tax Reform in Switzerland
- December 3, 2020: Alexandra Krasnobaeva (Russia): Russian Anti-Tax Avoidance Policy: Main Trends
- March 16, 2021: Shuangshuang Lu (China): The Recent Tax Policies for Foreign Investment and International Movement of Goods and Talents in China
- April 15, 2021: Caroline Guimaraes (Brazil): Brazil’s Treaty Policy
- June 17, 2021: Vivien Tomio-Onghay (Austria): Austria’s Tax Policy Approach to Protecting the Environment

### DIBT Workshops

Throughout the year, various workshops on specialized topics are offered to DIBT students and are also open to other Institute researchers. At these workshops, international tax law experts discuss topics of current relevance within their specialized field of expertise. Usually, the first half of the workshop focuses on the presentation of the topic, whereas in the second half points related to the presentation are discussed. Next to offering insight into various specialized topics within the field of tax law, these workshops also help to foster contacts with relevant experts in the tax community.



### Speakers and Topics of DIBT Workshops in academic year 2020/21

October 6, 2020

- Prof. Cliff Fleming: Expanded Worldwide Versus Territorial Taxation After the TCJA

February 17, 2021

- Prof. Pasquale Pistone: DST and Tax Treaties; Art. 15 OECD MC and the Validity of Nexus Based on the Place of Exercise of Activity; Brexit and the EU-UK Free Trade Agreement

March 4, 2021

- Prof. Servatius van Thiel: International Tax Law and International Trade Law

March 15 to 16, 2021

- Dr. Richard Stern: Tax After the Pandemic: A New Trajectory for Tax Policy and Administration

May 3, 2021

- Dr. Alice Pirlot: The Nature and Role of Tax Law Scholarship

June 9, 2021

- Prof. Walter Hellerstein: What Every International Business Tax Professional Should Know About U.S. Subnational Taxation

June 15, 2021

- Prof. Pasquale Pistone: Digital Services Tax and Taxpayers' Rights in International Law

June 16, 2021

- Prof. Maria Cruz Barreiro: The Controversial Legal Basis of the Anti-Tax Avoidance Directive. An Analysis in the Light of Its Linking Rules

## Round Tables

When conducting research, it is always beneficial to discuss newly developed ideas and hypotheses with colleagues and professors. At the Institute for Austrian and International Tax Law, we have established a Round Table format which gives researchers the possibility to discuss their thoughts on a research topic they are working on in an informal yet

organized manner. To this end, a draft paper is prepared and circulated to all members and guests of the Institute one week in advance. Everyone is invited to read the paper and attend the Round Table. The discussion is chaired by a professor or a senior post-doc researcher and is usually very lively. The author of the paper benefits from the input received and new perspectives given on the topic, which enables the author to develop ideas further. At the Institute for Austrian and International Tax Law, we are fortunate enough to be able to discuss ideas not only with Institute staff, but also with visiting professors and guest researchers from around the world. Furthermore, our guests generally use the opportunity, while they are with us, to present a paper at a Round Table. In this way, everyone involved can learn not only about foreign tax systems, but also about the different ways of thinking about international tax issues and opinions on how to deal with them. In this academic year 2020/21, we had valuable inputs to individual round tables from Dr. Josef Fuchs, a former senate president of the Supreme Administrative Court. This year the Round Tables took place in a virtual format.

### Topics of Round Tables

Jonathan Leigh-Pemberton	Tax in the Board Room
Dr. Karol Adam Dziwiński	The Definition of DEMPE Functions
Christina Dimitropoulou	Business Taxation on Gross Receipts
Dr. Alexandra Miladinović	Comparability of Separate and Related Entities
Xiangdan Luo	Tax Treaty Overrides in the Interpretative Process and Possible Backdoors – A Chinese Observation
Svitlana Buriak	Digital Labour Platforms: A Legal Qualification Dilemma
Shimeng Lan	The Right to Protection of Personal Data: Review, Analysis and Outlook
Joy Waruguru Ndubai / Siddhesh Rao	Digitalization, Illicit Financial Flows and Sustainable Development Goals

# 4



## RESEARCH ACTIVITIES

Joy Waruguru Ndubai	Implementing the Multilateral Instrument in Kenya
Joy Waruguru Ndubai / Siddhesh Rao	Interaction between Taxation and Trade
Florian Fiala	Die "erwiesene Unrichtigkeit" des Spruchs als Voraussetzung der Aufhebung nach § 299 BAO
Valentin Bendlinger	The Notion of "Income" in Art 23B (1) OECD MC and its Impact on the Maximum Tax Credit
Vera Hellebrandt	Ermessen und Mitwirkungspflicht bei unilateralen Maßnahmen nach § 48 BAO
Nicholas Pacher	VwGH: Organschaft oder Missbrauch beim konzerninternen Immobilienleasing?
Annika Streicher	Who Has the Competence the Implement VAT Dispute Resolution Mechanisms in Relation to Third States?
Markus Mittendorfer / Mario Riedl	Zur Vergleichbarkeitsprüfung des EuGH bei der grenzüberschreitenden Verlustverwertung mit besonderem Blick auf die Rechtssache Aures
Balázs Károlyi	The Analysis of Turnover-based Business Taxes in light of the Fundamental Freedoms
Martha Caziero	Interpreting the Scope of ATAD: The Remaining Leeway for Tax Competition
Belisa Fereirra Liotti	Tax Sparing
Siddhesh Rao	Evaluating the Impact and Practical Operation of Client-Attorney Privilege in the Context of Tax and Financial Transparency
Katharina Moldaschl	Die Besteuerung von Stock Options für Mitarbeiter
Stefanie Gombotz	Multilateralism in Tax Treaty Law

Dorottya Kovács	Transfer Pricing and Technologies
Angelina Papulova	International Compliance Assurance Programme (ICAP) within the EU: Compatibility, Similar Instruments and the future EU Cooperative Compliance Framework
Ashrita Prasad Kotha	Earmarking of Taxes for Disruption and Recovery
Andreas Ullmann	Digital Services Taxes and the Elimination of Double Taxation
Martin Klokár	Das Nominalwertprinzip und die Inflation – Über die Scheingewinnbesteuerung und die kalte Progression unter besonderer Berücksichtigung des österreichischen Ertragsteuerrechts
Nicholas Pacher	Recent and Pending Cases at the CJEU on Direct Taxation 2020: Austrian Cases C-163/20 and C-328/20
Christina Pollak	Is Article 14a of the VAT Directive an Infringement of the Principle of Equality Stipulated in Article 20 CFR?
Christian Knotzer	Abfertigung "NEU" bei deutsch-österreichischen Grenzgängern
Sayee Prasanna	Transfer Pricing and Intra-Group Crypto-Asset Arrangements
Gabriela Capristano Cardoso	Rebellions, Rascals and Misfits and Their Role in Tax Policy: A Historical Perspective on Future Tax Systems
Yasmin Lawson	Mandatory Disclosure Rules in Austria
Stefano Castagna	Inherent and Implied Powers of International Tax Dispute System (ITDS) Arbitral Panels
Erika Scuderi	A Case for Environmental Taxation as a Response to the EU Green Deal's Challenges and the COVID-19 Economic Crisis
Sergio Messina	Interpretative Analysis of the New Notion: "In Consignments of an Intrinsic Value not Exceeding EUR 150"
Philipp Scharizer	Lizenzzahlungen an eine maltesische Handelsgesellschaft (Fall XXX-Lutz)



Theres Neumüller	VwGH zum "aufgespaltenen" Konzernwerb
Belisa Ferreira Liotti	Limits of International Cooperation: Harmful Tax Practices, Unintended Non-Taxation and Jurisdiction not to Tax
François Barreau	The Tax Sovereignty of the Member States in the Light of the Internal Sovereignty of the European Union in the field of Direct Taxation
Cristóbal Pérez Jarpa	Exit Taxes: Usage, Policy Goals and Rationale
Jonathan Leigh-Pemberton	Biden's Tax Reform: What Impact does it have on the International Tax Architecture?

## Topical Discussion Rounds

Staying up to date is essential for conducting high-quality research. The Institute organizes several internal meetings, so-called "Coffees" and "Teas", during which the latest developments in the field of Austrian, European, and international tax law are discussed. Researchers of the Institute prepare every Coffee or Tea. The Coffees and Teas lead to fruitful debates, fostering the exchange of knowledge between the academic staff. This year, the Coffees and Teas took place in a virtual format.

### VAT Coffee:

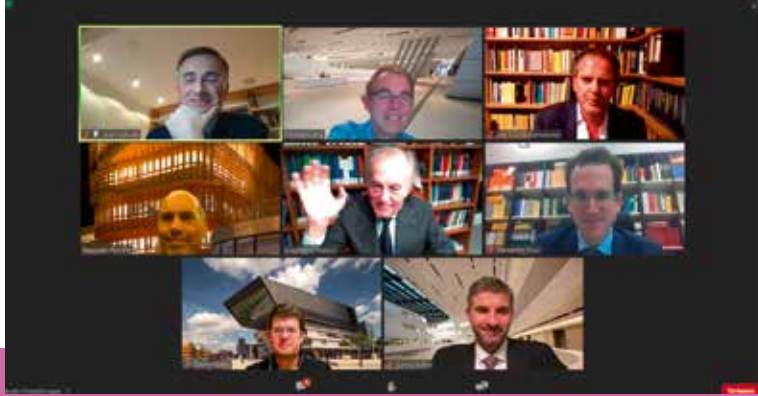
- Recent Developments on the EU and Austrian Legislative Level
- Recent Case Law by the CJEU and by Austrian courts
- ECJ Nov. 12, 2020, C-42/19, Sonaecom
- ECJ Jan. 27, 2021, C-787/19, Commission v Austria
- ECJ Mar. 11, 2021, C-812/19, Danske Bank
- ECJ Apr. 15, 2021, C-868/19, Finanzamt für Körperschaften Berlin
- ECJ Apr. 15, 2021, C-592/19, SK Telecom

### Tax Update:

- Höchstgerichtliche Rechtsprechung
- BFG-Rechtsprechung
- Entwicklungen im nationalen Steuerrecht
- Entwicklungen im europäischen und internationalen Steuerrecht
- VwGH 27.11.2020, Ra 2019/15/0162 – "XXXLutz-Fall": Spaltung und wirtschaftliches Eigentum, Zulässigkeit von Lizenzzahlungen
- VwGH 15.10.2020, Ro 2019/13/0007 – Zweifelsfragen der Einkünftezurechnung bei slowakischer Komanditná Spoločnosť mit österreichischen Gesellschaftern
- BFG 28.09.2020, RV/3100596/2020 und RV/3100131/2016
- Die ertragsteuerliche Behandlung bestimmter COVID-19 Förderungen (Fixkostenzuschuss, Verlustersatz, Kurzarbeit, Investitionsprämie, Umsatzerersatz) und steuerliche Neuerungen durch das Homeoffice-Paket
- OECD: Updated Guidance on Tax Treaties and the Impact of the COVID-19 Pandemic



# 4



## RESEARCH ACTIVITIES

### TP Coffee:

- Interpretation and Application of the DEMPE Concept in View of the L'Oréal India Pvt. Ltd. Case Issued in 2019 by the Income Tax Appellate Tribunal in India.
- Focus on the US Supreme Court's Position on the Altera Case
- Discuss the OECD's Pillar 1 Blueprint
- Recent UN Digital Tax Proposal and Related TP Aspects.
- Recent US Tax Court Decision in the Case of Coca-Cola
- Recent Decision by a Tax Tribunal in Denmark on Intra-Group Treasury Functions, Cash Pooling and Arm's Length Interest Rates
- Changes to the Commentary on Article 9 of the OECD Model

### CJEU Case Law Coffee:

- Ireland v Commission, Joined Cases T-778/16 and /-892/16 ("Apple" Case)
- Lexel (C-484/19) on a Swedish Limitation of Interest Deductions Whenever the Payment is Made to a Country That Does Not Meet a Minimum Tax Threshold.
- The Polish and Hungarian (C-596/19 P) State Aid Cases on Progressive Turnover Taxation
- C-403/19, Societè Générale, on the Topic of Juridical Double Taxation as Mere Disparity in EU Law
- T-816/17, Luxembourg v. Commission; T-318/18, Amazon EU and Amazon.com v Commission
- T-516/18, Luxembourg v Commission; T-525/18, ENGIE Global LNG Holding and Others v Commission

### Tax Trea(ty) Tea:

- India: Case MANU/ID/0856/2020 (ITA no. 7075/DEL/2017), Giesecke & Devrient Pvt. Ltd. vs. The Addl. C.I.T.
- United Kingdom: Case UKFTT 267 TC, Royal Bank of Canada vs. HMRC. Principles for Interpretation
- Canada: Case 2019 FCA 310 Federal Court of Appeal, Landbouwbedrijf Backx BV v. The Queen

## OECD Archives

The minutes and other documents of the OEEC and OECD committees at the time the OECD Model Convention was drafted provide valuable information about the intention of the drafters for researchers in tax treaty law. Until now, these documents have been available only in Paris or Florence, where the OECD Archives are located. Our Institute is the leading partner of a consortium consisting of the OECD, the IBFD, the Canadian Tax Foundation, IFA Canada, the University of Piacenza, and the University of Sydney, Sydney Law School. Together, we have copied, scanned, digitalized, and uploaded these documents to the Internet, in order to make them available to researchers worldwide. The database now includes 3,107 documents with more than 30,000 pages, all in a searchable format. It can be accessed via the following link: <https://www.taxtreatieshistory.org>.

## Funded Research Projects

In academic year 2020/21, our Institute conducted various research projects that were sponsored by the Austrian Science Fund (FWF), the Jubilee Fund of the Austrian National Bank, Eurasia Pacific Uninet, Gatti Pavesi Bianchi Ludovici, Vertex, Erste Bank, B&C Industrieholding, B&C Privatstiftung, SICPA Guardtime SA, Thomas Reuters Global Resources Unlimited Company, Siemens Integrity Fund, Swedish Industry, the European Commission, the World Bank, Inter-American Development Bank, Microsoft Corporation, and Anglo American.

### Funded Research Projects

- docfunds Doctoral Program in International Business Taxation (DIBT)
- Operating Transfer Pricing Rules in the New Transparent Environment: Exploiting the Potential of New Technologies
- Challenges for VAT in a Digital Economy
- Tax Challenge of the Digitalization of the Economy
- International Taxation, Transfer Pricing and Tax Policy



### **Funded Research Projects**

- Tax Transparency and Corruption Removing Tax Barriers to the Belt and Road Initiative
- Implications of Tax Administration Digitalization in LAC
- Technical Support on Setting up a Specialized Transfer Pricing Team and Designing and Delivering a Comprehensive Capacity-Building Program in Transfer Pricing
- Implementation of the MLI
- Digitalization of Tax Administrations
- Digital Tax Transformation
- Digitalization: Examining the New Tax Policy and Administration Potential
- Dispute Resolution, DET, and Other Related Activities
- Cooperative Compliance
- Good Governance in a Digital and Open Trading Environment

## **Incoming Foreign Researchers**

High-level research is only possible if close links with the international scientific community are established. The Institute for Austrian and International Tax Law therefore strives to invite as many distinguished foreign researchers as possible to cooperate on research projects. In academic year 2020/21, we were able to host eight visiting professors from abroad on the standard program and 32 on our LL.M. International Tax Law program. Guest visits of foreign researchers were limited when compared to previous years, due to travel restrictions imposed by the worldwide pandemic. Nevertheless, we were proud to host eighteen guest researchers from twelve different countries, who stayed for 49 months in total, ranging from stays of two weeks to six months. Many of our guests were granted a fellowship for their research period or were able to participate in a funded exchange program. The numerous guest researchers provide a unique opportunity for the members of the Institute as well as the incoming academics to establish and enhance contacts with the international scientific community.

### **Incoming Foreign Researchers**

- BURGER, Silvan, GERMANY, Intangibles and International Profit Allocation
- CABRERA, Carlos, SPAIN, Methods Used in Double Taxation Treaties to Distribute Taxable Profits Among Jurisdictions
- CASTAGNARI, Filippo, ITALY, Arbitration Tax Proceedings for International Tax Treaty Related Disputes
- CASTRO, Marina, SPAIN, DAC 6 and Aggressive Tax Planning
- CARBONE, Vincenzo, ITALY, The Digitization of the Customs Administration
- FANTI ROVETTA, Marco, ITALY, Aggressive Tax Planning: Financial Instruments and Hybrid Mismatch Arrangements
- GALENDI Ricardo, BRAZIL, The Treatment of Losses in International Tax Law
- GIAMBRONE, Filippo Luigi, ITALY, Future Perspectives Concerning the Future Funding of the European Union – New Opportunities Regarding a European Tax Policy Coordination
- HEIDEMAN, Freek, NETHERLANDS, Advance Tax Rulings: Balancing Tax Transparency and Taxpayers' Rights
- HODŽIĆ, Sabina, CROATIA, International Taxation in the Digital Economy
- KORUK, Alperen Asim, TURKEY, Direct Taxation of Cloud Computing Services
- KOUKOULIOTI, Vasiliki, GREECE, Jurisdiction to Tax Business Income in the Digital Era
- MAKON, Odilon, CAMEROON, Tax Policy and Administration in Sub-Saharan Africa
- MANGIAFICO, Giulio, ITALY, Direct Corporate Taxation Harmonization within EU Law Framework
- RIVIÈRE, Ines, BELGIUM, Critical Analysis of the (Distribution of the) Burden of Proof in Tax Law, Taking into Account the Increasing Digitalisation and Legal Protection of the Taxpayer
- SCHMID, Patrick, SWITZERLAND, Transfer of Functions under Harmonized Swiss Tax Laws – Constituent Elements and Tax Consequences of Cross-Border and Domestic Circumstances
- SZAKÁCS, Andrea, SLOVAKIA, Exchange of Tax Information
- TOLEDO PIRES DE OLIVIERA, Phelippe, BRAZIL, Is it Really Worth it Paying Taxes in Brazil?



## Outgoing Researchers

Prof. Alexander Rust gave lectures at the University of Leiden (the Netherlands), the University of Luxembourg (Luxembourg), the Instituto Brasileiro de Direito Tributário – IBDT (Brazil), and taught as an adjunct professor at Georgetown University (United States).

Prof. Pasquale Pistone gave lectures at the Fudan University of Shanghai (China), the University of Rijeka (Croatia), the University of Brescia, the Suor Orsola Benincasa University of Naples, LUISS Rome and the University of Verona, as well as the Academy of Tax Police (Italy), the University of Amsterdam (the Netherlands), the University of Cape Town (South Africa), the University of Örebro (Sweden), and at the University of Zurich (Switzerland).

## Engaging with International Academic Institutions

Prof. Georg Kofler currently serves as the chairman of the ECJ Task Force of CFE Tax Advisers Europe as well as of the Joint Tax Committee of the German, Swiss and Austrian Chambers of Accountants, and as a vice-chairman of the working group on constitutional law and EU law of the Austrian Chamber of Tax Advisors' Scientific Board; he is also vice-chair (since 2020) and a member (since 2016) of the Permanent Scientific Committee (PSC) of the International Fiscal Association (IFA) and, an alternate member of the EU's Joint Transfer Pricing Forum (JTPF).

Prof. Michael Lang is President of the Austrian Branch of the International Fiscal Association (IFA); Prof. Josef Schuch, Prof. Claus Staringer, Prof. Georg Kofler, and Prof. Karoline Spies serve as members of the Board. Prof. Michael Lang is also a member of the ECJ Task Force of CFE Tax Advisers Europe, a member of the Scientific Advisory Council, as well as of the Board of the Deutsche Steuerjuristische Gesellschaft, of the Joint Tax Committee of the German, Swiss and Austrian Chambers of Accountants, and of the Scientific Committee of

the Centre for Research on Business Taxation (CERTI), Bocconi University Milan. He is also a member of the Board of Trustees of the International Bureau of Fiscal Documentation (IBFD) and a member of the Scientific Advisory Board of the Leibnitz Science Campus MaTax, as well as the Chairman of the Academic Committee of the Kardinal-Innitzer-Studienfonds.

Prof. Alexander Rust is Professeur Associé at the University of Luxembourg and a member of the ECJ Task Force of CFE Tax Advisers Europe.

Prof. Karoline Spies is a member of the VAT Expert group (VEG) at the European Commission and a member of the sub-group on "VAT in the platform economy".

Prof. Pasquale Pistone is the Academic Chairman of the International Bureau of Fiscal Documentation (IBFD), Associate Professor of Tax Law at the University of Salerno (Italy), Professor honoris causa at the Ural State Law University (Russia) and at the University of Cape Town (South Africa), Doctor honoris causa at the University of Örebro (Sweden), a member of the Permanent Scientific Committee (PSC) of IFA, of the Executive Board and Secretary General of the European Association of Tax Law Professors (EATLP), a member of the CFE (Confédération Fiscale Européenne) Task Force on Direct Taxation, a founding member of GREIT (Group for Research on European and International Taxation), President of the Italian Association for Latin American Tax Law, and a Member of the Executive Board of ILADT (Instituto Latinoamericano de Derecho Tributario), President of Ius Fiscale Europaeum (IFE), an honorary member of IBDT (Instituto Brasileiro de Direito Tributário), of IUET (Instituto Uruguayo de Estudios Tributarios), and of MIM (Malta Institute of Management).

Prof. Jeffrey Owens is the adviser to the IADB, UNCTAD and World Bank and a number of regional tax administration organizations. He is also the senior policy adviser to the Global EY Vice chair of Tax, on the editorial board of the Journal for International Economic Law, as well as on the Board of Associate Editors of the UNCTAD Transnational Corporation Journal.



# 5



## DISSEMINATING OUR KNOWLEDGE

Prof. Robert Risse is a member of the board of the German Institute for Digitalization of Tax Law, responsible for Distributed Ledger Technology as Blockchain developments. He is also a board member of the German IFA West association.

### Book Series, Tax Journals

In academic year 2020/21, many books were written or edited by the professors of our Institute, most of which were published by the Facultas, Linde, and Wolters Kluwer publishing houses. The Institute has continued publishing a book series with the IBFD. Prof. Georg Kofler, Prof. Michael Lang, Prof. Alexander Rust, Prof. Josef Schuch, Prof. Karoline Spies, and Prof. Claus Staringer are editors of the "Series on Austrian Tax Law", originally founded by Prof. Gerold Stoll.

Prof. Georg Kofler is on the editorial board of "EC Tax Review", and serves as one of the editors of the peer-reviewed "Spektrum der Steuerwissenschaften und des Außenwirtschaftsrechts" (StAW) and of "Zeitschrift für Gesellschaftsrecht und angrenzendes Steuerrecht" (GES); he is also active on the board of, for example, "TPI" (Transfer Pricing International), "IStR" (Internationales Steuerrecht), and "beck.digitax".

Prof. Michael Lang is the editor of the "Series on International Tax Law", presently comprising 123 volumes; he has also continued to be the editor of "SWI" (Steuer und Wirtschaft International), a tax journal specializing in international tax law, which he founded 30 years ago.

Prof. Alexander Rust is a member of the editorial board of the Dutch tax journal "Inter-tax" and of the German tax journal "Internationale Steuer-Rundschau". He also serves on the advisory board of the Austrian journal "Spektrum der Rechtswissenschaft"; he is

editor of the English version of the commentary "Klaus Vogel on Double Taxation Conventions" and is editor of the book series on "Recht der Steuern und der öffentlichen Finanzordnung / Tax Law and Public Finance".

Prof. Karoline Spies is also one of the editors of *Ecolex*, a journal on business law and tax law.

Prof. Claus Staringer is one of the editors of "AVR" (Abgabenverfahren und Rechtsschutz), a journal that was first published in February 2020 and is specialized in tax procedural law. He is also responsible for initiating Lexis 360, a new online news project.

Prof. Pasquale Pistone is editor-in-chief of the IBFD World Tax Journal and of the Global Tax Treaty Commentaries. Moreover, he is a member of the editorial board of *Diritto e Pratica Tributaria Internazionale* (Italy). He is the editor of the IBFD Doctoral Series. He is also a member of several other scientific boards of tax specialized journals in various countries of Europe and the world.

Moreover, Prof. Michael Lang and Prof. Pasquale Pistone are members of the scientific board of the Russian Yearbook on International Tax Law. Prof. Michael Lang is a member of the board of editors of the World Tax Journal and is also editor-in-chief of the Bulletin for International Taxation, as well as one of the editors of Kluwers' Series on International Tax Law. Prof. Michael Lang and Dr. Raffaele Petruzzi are editors of the "Series on Transfer Pricing Developments Around the World", published by Wolters Kluwer.

Prof. Robert Risse and Dr. Raffaele Petruzzi are members of the editorial board and co-editors of the tax journal "TPI" (Transfer Pricing International) published by Linde, the first transfer pricing journal in the German language.



## DISSEMINATING OUR KNOWLEDGE

### Contacts with Academics and Practitioners from Around the World

#### Vienna Certificate in Transfer Pricing

The Vienna Certificate in Transfer Pricing is awarded to experts who complete two excellent courses with a high-class case study as well as a technical paper supervised by the WU Transfer Pricing Center. The certificate targets professionals around the world who want to build or broaden their knowledge in transfer pricing. Participants are typically tax and transfer pricing advisers (accountants, economists, and lawyers), in-house tax and finance employees of international companies, government officials, and academics.

#### Vienna Certificate in Double Tax Treaties

The Vienna Certificate in Double Tax Treaties is offered to tax treaty experts and consists of two excellent courses, a high-class case study, and a technical paper supervised by the professors of the Institute. Ideally, all four parts should be taken within one year. The Certificate is aimed at tax practitioners who want to gain intense practical knowledge of double tax treaties from leading researchers and practitioners.

#### Information Evenings

Together with the Austrian Chamber of Tax Advisers and Public Accountants, the Institute organized a lecture on October 19, 2020, (Prof. Schuch) on the topic "Update Internationale Besteuerung – OECD/G20 Entwurf vom 12. Oktober 2020: Pillar 1 (neue Besteuerungsregeln für Automated Digital Services und Consumer Facing Businesses) und 2 (globale Mindest-Körperschaftsteuer)". Another lecture was held on March 8, 2021, (Prof. Kofler) on the topic "Ertragsteuerliche Aspekte des COVID-19-StMG".

#### Corporate Tax Lunch

On November 30, 2020, and April 27, 2021, our Institute, in close cooperation with the Austrian Chamber of Commerce, hosted virtual working lunches for corporate tax directors, who exchanged their views on current developments in international tax law among themselves and with the professors of the Institute.

#### Henkel Global Tax Campus

The "Global Tax Campus" took place on April 21 to 22, 2021, and September 7 to 8, 2021. During these events, research associates of our Institute held lectures for employees of Henkel. Both seminars were successfully held online via MS Teams. The collaboration between Henkel and the Institute for Austrian and International Tax Law is very much appreciated and we are looking forward to many more seminars.

#### Tax Treaty Course

This seminar is held on tax treaty law, where our knowledge and experience is shared with practitioners during courses, making use of the specialization of our research staff in international tax law. The summer term course was organized as an "online video" course from May 10, 2021. We are happy about our longstanding and valuable cooperation with the Akademie der Steuerberater und Wirtschaftsprüfer Vienna for the organizational aspects of these seminars.

#### Teaching in Beijing and Xiamen

This year, though only remotely, it was once again possible for the Summer Schools in Beijing and Xiamen to take place. Within the framework of the Austrian-Chinese Tax Research Network, a Viennese delegation gave a five-day course in Beijing to fourth-year

undergraduate students and Master students from the Central University of Finance and Economics Beijing from June 21 to 25, 2021. From July 19 to 24, 2021, a further Viennese delegation lectured during the 7th Summer School of International Tax Law at Xiamen University.

## CEE Vienna International Tax Law Summer School

From July 12 to 16, 2021, the CEE Summer School on International Tax Law was organized for the twelfth consecutive year and took place at our Institute. This program consists of one week of intensive work on scientific topics covering the practice of double tax treaties and European tax law, taught by professors and experienced research staff of our Institute. Once again this year, all 14 selected full-time students were offered free participation in the program. Welcome reception sponsored by LeitnerLeitner was organized to encourage contacts between students, lecturers, and renowned partners from the business community. This year, the CEE Vienna International Tax Law Summer School was sponsored by Borealis, LeitnerLeitner, and Siemens.

## Maintaining Lifelong Relationships with Students, Graduates, and Practitioners

A major priority is the preservation of relationships with students, graduates, and other practitioners. Seventeen years ago, a database was created containing contact details for our students, in order to give them as much information as possible, and this network is maintained after graduation. In addition, we send electronic newsletters in German and English to over 18,000 people, we post twice a week on our LinkedIn page, and we distribute our magazine TAX LAW WU on a quarterly basis to provide up-to-date information about our Institute's activities. It is always a pleasure to invite our alumni and other practitioners to special lectures.

## Helping Practitioners Search for Literature and Case Law

Our Institute houses the Research and Documentation Center for Tax Law. Many firms are members and delegate tasks to the Center's research staff, which includes excellent and very experienced students. They collect literature and case law on selected topics for the members upon request. Membership fees are re-invested in order to improve the quality of our library services even further.

GattiPavesiBianchiLudovici

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