



Institute for Austrian and  
International Tax Law **Vienna**

# Report of the Academic Activities

2004/05





# Preface

The Institute for Austrian and International Tax Law is among the biggest academic institutions doing research and teaching tax law in the world. To a large extent we are financed by the Vienna University of Economics and Business Administration (Wirtschaftsuniversität Wien, WU), the university we are proud to be part of, and the Austrian taxpayer. However, to a growing extent we have been getting funds from Austrian and European research institutions, our partners in the business sector and private and corporate sponsors. For example, two thirds of the funds we spent on our library in the academic year 2004/05 were provided by external sources. We are grateful to the taxpayer and to all our sponsors and partners and feel responsible to them. Thus, we

want to take the opportunity to report to them, to our students and alumni and to our friends and colleagues in the international scientific community on how we spend this money and on 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 and international tax law. Most of our research activities deal with issues stemming from these areas. This is true for our teaching activities as well. On a daily basis we realize that our research activities ensure the quality of our teaching, and that, vice versa, teaching helps us to develop, structure and discuss research

ideas. Therefore, both research and teaching focus mainly on corporate tax law and international tax law.

In this report we present our activities in the academic year 2004/05. This year started on 1 October 2004 and finished 30 September 2005. At the beginning of this period, on 2 October 2004, our colleague, friend and teacher Wolfgang Gassner passed away. He was appointed in 1981, headed our institute until 1998 and made it what it is today. We want to keep his memory alive and have therefore tried hard to fulfil the high expectations he had of all of us. We dedicate the activities of the past academic year to him and to his memory!

Michael Lang

Josef Schuch

Claus Staringer





# Staff

## Professors:

Prof. Michael Lang  
Prof. Josef Schuch  
Prof. Claus Staringer

## Assistant Professors:

Patricia Brandstetter  
Eva Burgstaller (until 30 June 2005)  
Sabine Dommès  
Katharina Haslinger  
Judith Herdin  
Dr. Ines Hofbauer (until 28 February 2005)  
Matthias Hofstätter  
Daniela Hohenwarter, LL.M  
Dimitar Hristov  
Angelika Jettmar  
Walter Loukota (until 31 March 2005)  
Vanessa Metzler, LL.M  
Marie-Ann Müllner (starting 1 May 2005)  
Friederike-Sophie Oberascher  
Christine Obermair  
Michael Petritz, LL.M (until 16 March 2005)  
Patrick Plansky

Gernot Ressler  
Michael Schilcher  
Hermann Schneeweiss (starting 2 March 2005)  
Markus C. Stefaner (until 31 August 2005)  
Alexander Stieglitz LL.M LL.M (until 30 March 2005)  
Patrick Weninger

## Lecturers:

Josef Bauer  
Prof. Wolfgang Ellinger  
Doz. Dr. Philip Göth  
Doz. Dr. Robert Hofians  
Dr. Martin Jann  
Dr. Gerd Konezny  
Prof. Helmut Loukota  
Dr. Otto Plückhahn  
Doz. DDr. Reinhold Schürer-Waldheim  
Dr. Franz Philipp Sutter  
Dr. Gerald Toifl  
Dr. Christoph Urtz  
Prof. Werner Wiesner  
Dr. Ulf Zehetner  
Dr. Mario Züger

## Research and Documentation Centre:

Lena Prucher  
Christina Riedl  
Thomas Röster  
Marion Weiser  
Michael Zach

## Administrative Staff:

Gabriele Bergmann  
Necha Demirova  
Brigitte Dudli  
Martina Koller  
Elisabeth Rossek



# Teaching

## Teaching Activities in the Regular Programme

Two basic courses in tax law are mandatory for most students in the regular programme of our university. The Institute for Austrian and International Tax Law offers these courses and organizes the exams. In the academic year 2004/05 3,585 students took the exams in the courses "Tax Law I" and "Tax Law II". 3,002 students passed the exams.

Students at our university have many different options for specialisation. Our institute offers three electives, namely "General tax law", "Corporate tax law" and "International tax law". Each elective consists of three courses: Students who choose "General tax law" have to take one course on individual and corporate tax law, one course on VAT and legal protection of the taxpayer and one seminar on selected recent issues in tax law. Those students who want to specialise further may decide to take "Corporate tax law" and/or "International tax law". In "Corporate tax law" the students take a basic course on corporate income taxes; they can then choose among some courses on selected issues such as reorganisation tax law, criminal tax law, procedures in tax law, etc. They finalise their studies in "Corporate tax law" by participating in a seminar on selected recent issues. In "International tax law" the basic course deals with

double taxation conventions. For an advanced course the students can choose between courses on developments in European and foreign tax law. In the academic year 2004/05 we had lectures on ECJ case law (Prof. Wathelet, Louvain, former ECJ judge), US tax law (Prof. Gustafson, Georgetown; Prof. Beck, New York School of Law), Italian tax law (Prof. Pistone, Salerno), Swiss tax law (Prof. Reich, Zürich) and tax reforms in Germany (Prof. Rose, Heidelberg). The final course the students must take is a seminar dealing with recent tax treaty issues.

Students at our university are required to write a masters thesis, usually 80 – 100 pages. They try to find an institute where they can elaborate on a topic they are interested in. Our institute, like most others, primarily accepts those students who had the best grades at the courses offered by our institute. In the academic year 2004/05, 11 master theses were approved by Prof. Lang, Prof. Schuch or Prof. Staringer.

### Tax Law Electives

Course	Exams taken in 2004/05
<i>Income Tax Law (in 13 courses)</i>	425
<i>VAT (in 10 courses)</i>	309
<i>Seminar on Recent Tax Law Issues (in five courses)</i>	202
<i>Corporate Tax Law (in two courses)</i>	55
<i>Reorganisation Tax Law</i>	20
<i>Criminal Tax law</i>	22
<i>Procedural Tax Law</i>	30
<i>Seminar on Recent Corporate Tax Law Issues</i>	32
<i>Tax Treaty Law</i>	91
<i>European Tax Law</i>	25
<i>US Tax Law (in two courses)</i>	20
<i>Italian Tax Law</i>	25
<i>Seminar on Recent Tax Treaty Law Issues</i>	44



## Special Activities Offered to Students

Every year the six best students at our institute may participate in the EUCOTAX (European Universities Cooperating on Taxes) Programme. EUCOTAX is a network consisting of the tax law institutes of universities in London, Paris (Sorbonne), Barcelona, Stockholm (School of Economics), Tilburg, Leuven, Washington D.C. (Georgetown), Budapest, Rome (LUISS), Osnabrück and Vienna (WU). In the academic year 2004/05, the EUCOTAX conference took place in Tilburg from 1 April to 8 April 2005. The general subject was "Cross-Border Movement of Capital". Prof. Josef Schuch and Katharina Haslinger supported and supervised our students, who participated in workshops and presented the results of their master theses. They had been selected in June 2004 and started to write their masters thesis directly in English. During the winter semester 2004/05 a special seminar was organised for them to discuss their substantive issues and to get a special English language training, provided by Margaret Nettinga, a former editor of European Taxation, who lives in Amsterdam. She came to Vienna twice to discuss issues with the students and to hear their presentations. She read the first drafts and the final versions of the master theses and gave her comments how the language could be improved.

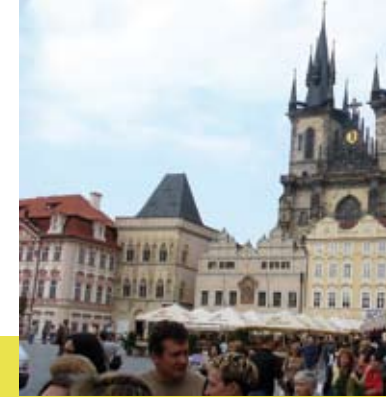
### Topics of the EUCOTAX Masters Theses:

- *The Relationship of the Free Movement of Capital with Other Fundamental Freedoms*
- *Free Movement of Capital and Third Country Relations*
- *The Influence of the Savings Directive on Free Movement of Capital*
- *Exchange of Information*
- *WTO and Other Non-Tax Treaties*
- *Tax Evasion and Money Laundering*

With our institute having been involved in the EUCOTAX programme since 1998, we took part in a "Moot Court Competition" on European and International Tax Law which was organised by the Universities of Leuven and Tilburg from 23 February to 6 March 2005. A moot court is a fictitious court before which teams of students play the roles of the plaintiffs and the defendants and argue their case. Our institute's team, guided by Prof. Staringer, received an award for the best written statement.

## Discussion groups & social events

It is part of our policy to invite speakers to discuss recent and exciting tax issues, also outside the lecture rooms. An example of this is the talk we had with Prof. Robert Kudrle (University of Minnesota) on "US Defection from the OECD Harmful Tax Competition Project: Rhetoric and Reality" on 24 May 2005. On 27 June 2005 we had as guest Pierrepalo Rossi, who works for the European Commission in Brussels on competition law, who analysed the conformity of the Austrian group taxation regime with state aid provisions. This discussion got some media coverage.



WU is a big university, with more than 20,000 students. Therefore, we try our utmost to build up a personal relationship with our students. Several initiatives have been taken to achieve this goal. Every semester we invite all our students to the “Heurigen” for a dinner buffet and primeur wine. On this occasion we present our teaching and research programme for the following semester and try to get in touch with our students outside the lecture rooms. This year the event was sponsored by the Hayek Institute.

Furthermore, we invite speakers to give a talk on subjects that are relevant but not exclusively related to tax law: On 19 October 2005 we had an evening on tax psychology and ethics with Prof. Kirchler and Prof. Zulehner, both from the University of Vienna. The Chamber of Public Accountants hosted a buffet afterwards. After his lecture on US tax law on 10 March 2005, Prof. Richard Beck (New York Law School) gave a talk on life in New York (“Tax and the City”). McDonald’s sponsored a dinner buffet afterwards. On 15 June 2005 we had a discussion with Wolfgang Fritz, an Austrian historian, who dealt with the fate of the staff of the Austrian tax authorities during the Nazi era.

## Excursion to Prague

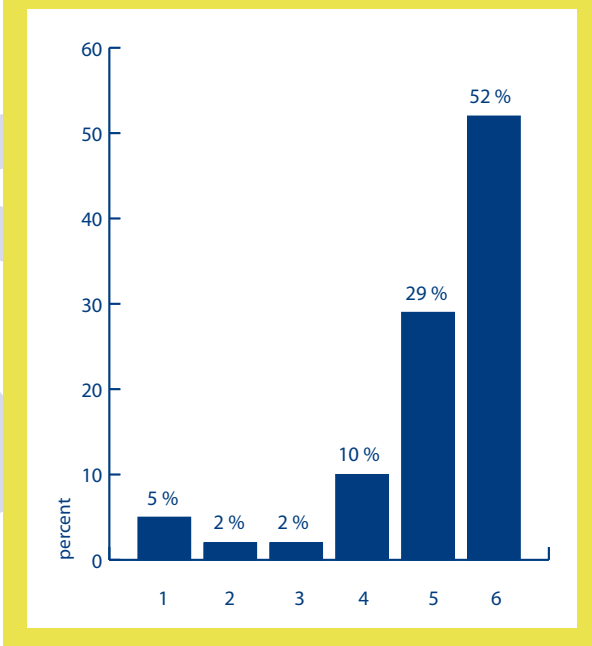
Another such initiative was our excursion to Prague from 30 June to 3 July 2005. This excursion was sponsored by Deloitte. Students were also invited to apply to participate, the best ten of whom were selected. They were joined by the staff of our department. In Prague we had discussions with representatives of the universities and the Ministry of Finance, where we were received by the Vice Minister, as well as by accounting and law firms (Deloitte, Saxinger) and by subsidiaries of Austrian groups (Ceska Sporitelna of Erste Bank group, Kooperativa of Wiener Städtische group, Czechinvest and the Austrian Trade Commissioner). An exciting sightseeing programme concluded this trip.

## Evaluation

In June 2005 we asked our alumni who had graduated during the last five years to evaluate our institute. They provided us with the following assessment of the quality of our teaching activities (in the regular programme):

### Quality of teaching in the regular programme (6=best mark, 1=worst mark)

mean value: 5,0715





## LL.M. Programme in International Tax Law

Our institute has been offering an LL.M. programme in International Tax Law since 1999 that enjoys a high reputation worldwide. In the academic year 2004/05 a one-year full time programme started in September 2004 and finished in July 2005. A two-year part-time programme, which started in September 2003, also finished in July 2005. For the full time programme starting in September 2004 we admitted 26 students, but had more than twice as many excellent candidates. The students who were admitted came from 17 different countries, of which more than 50% from outside Europe, with 16 % from Asia and 31% from North or South America.

### Scholarship

For the full time programme starting in September 2005 ERSTE Bank and PRESSE provided funds for a scholarship. Franz Koppensteiner was selected in March and received a cheque of EUR 9,450. The rest of the students were admitted in May 2005. Again, the numbers of applicants and diversity of coun-

tries were similar. The percentage of Asian students even increased somewhat. For all new students, a welcome reception took place on 5 September 2005.

### International Faculty

The faculty we welcomed in Vienna for our LL.M. programme was very international in the academic year 2004/05. They came from 21 different countries. Among them were some of the most prominent experts in international tax law.

206 students have graduated from our LL.M. programme in International Tax Law since the first courses started in 1999. Most of them joined the LL.M. International Tax Law Alumni Club and have built up a lasting worldwide network. In the past academic year Ute Surbier-Hahn (Germany) took over the presidency of the Alumni Club from Frank Mortier (Belgium). The General Assembly, which took place on 5 January and 6 January 2005, was combined with a seminar on recent tax developments in various countries and concluded with a dinner and a visit to the WU Ball in the Hofburg. In June 2005, many alumni met for a boat trip.

### LL.M. International Tax Law Faculty 2004/05:

Brian Arnold – Michel Aujean – John F. Avery Jones – Reuven Avi-Yonah – Robert Baconnier – Huub Bierlaagh – Michael Daly – Daniel Deák – Peter Essers – Charles Gustafson – Daniel Gutmann – Hubert Hamaekers – Francois Hellio – Lieselott Kana – Eric Kemmeren – Han Kogels – Rick Krever – Guglielmo Maisto – Jacques Malherbe – Yoshihiro Masui – John K. McNulty – Geerten Michielse – Margaret Nettinga-Arnheim – Ariane Pickering – Pasquale Pistone – Kees van Raad – Daniel Sandler – Jacques Sasseville – Arvid A. Skaar – Ben Terra – David R. Tillinghast – Bertil Wiman – Frederik Zimmer – Eva Burgstaller – Eva Eberhartinger – Thomas Eilmansberger – Katharina Haslinger – Judith Herdin – Volker Heydt – Ines Hofbauer – Peter Holzer – Otto H. Jacobs – Heinz Jirousek – Susanne Kalss – Wolfgang Kessler – Michael Lang – Helmut Loukota – Walter Loukota – Daniel Lüthi – J. M. Mössner – Albert J. Rädler – Bernhard Schima – Christian Schmidt – Wolfgang Schön – Josef Schuch – Klaus Sieker – Christoph Spengel – Claus Staringer – Markus Stefaner – Alfred Storck – Franz Sutter – Otmar Thömmes – Gerald Toifl – Christoph Urtz – Klaus Vogel – Robert Waldburger

# Teaching



# Research Activities

## Special Research Programme “International Tax Coordination”

In October 2003 a Special Research Programme (“Spezialforschungsbereich”) “International Tax Coordination” was established at the initiative of our institute by the Austrian Science Fund and was provided with funds of EUR 1.7 mn. for the first four years. Researchers from tax law, social security law and constitutional law, taxation (business administration), public finance, as well as economists and historians, work closely together. In the academic year 2004/05 our institute contributed to projects on source versus residence taxation, WTO and direct taxation and the relation between tax law and social security law.

## Conferences

### EC Law and Procedural Law

The results of several of our research projects were presented to the scientific community and discussed with fellow researchers from other Austrian and foreign universities in conferences organized by our institute. Together with the institute for Austrian and European Public Law at the WU, we hold a conference on procedural and constitutional law with a special emphasis on tax concerns on a regular basis. This year’s conference was held on 19 and 20 November 2004 on the topic “Procedural Tax Law and Community Law”. Well-known colleagues from other Austrian and foreign universities contributed to this conference. A book containing all the papers has just been published.

### Tax Law and Accounting

On 8 and 9 April 2004 the “Wiener Bilanzrechtstage” were held at our university for the seventh time. This is a joint activity of our institute and the Institutes for Taxation and Accounting and for Commercial Law at our university. 150 practitioners with an interest in academic topics accepted our invitation and heard a number of very interesting lectures on the general topic “Depreciation and Write-offs”.

## Tax Treaty Law

On 17 June 2005 the 12th Viennese Symposium on International Tax Law was organised by our institute. In cooperation with colleagues from other universities (e.g. Prof. Tumpel, Linz and Prof. Schön, Munich) the research staff at our institute presented the results of their research on the topic of “non-discrimination in tax law”. The 14 lectures held at that symposium will be published in a book.

On 7 to 10 July 2005 our institute invited 90 researchers from all over the world to an EU-sponsored “High-Level Scientific Conference” which focused on similarities and differences between double taxation conventions and social security conventions. Experts from tax law and social security law from several European countries, but also from New Zealand, Israel, Russia, Australia and the US took part. A questionnaire was prepared by the research staff of our institute and was sent out six months before the conference. Researchers from 18 countries prepared reports on the legal situation in their countries. These reports were discussed at the conference. The papers will be published by Linde and Kluwer.

On 10 to 14 July 2005 we organised the “4th International Tax Law Summer Conference” in Rust, Burgenland. We have been organising this type of conference on an annual basis since 2000. This conference focuses on a discussion on case studies on very recent issues in international tax law (such as conflicts of





characterisation, high value services, dual resident companies, etc.). Among the speakers were the “competent authorities” (for mutual agreement procedures and tax treaty negotiations) of the US, Germany, Switzerland and Austria. Among the almost 20 speakers were academics of the highest reputation, experienced practitioners and high-level tax administration officials from all over the world. Among the participants at this conference were leading practitioners and academics from different continents.

## Research Projects

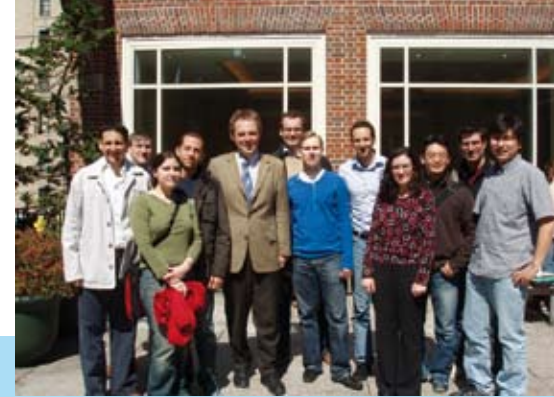
In the academic year 2004/05, our institute conducted various research projects that were sponsored by the FWF (Austrian Science Fund), the Jubilee Fund of the Austrian National Bank, the Jubilee Fund of the City of Vienna, Voest Alpine and Bank Austria Creditanstalt.

- International taxation of employees
- Taxation of alternative remuneration schemes for cross-border activities
- The constitutional scope of provincial and municipal legislators in inventing new taxes
- Vienna as international location for the new EU-member-states
- Taxation and capital markets

## EURYI Award

In August 2005, we were informed by the European Science Foundation (ESF) and the EUROHORCS (European Heads of Research Councils) that this year's EURYI (European Young Investigator) Award has been granted to our institute: Prof. Pasquale Pistone (Salerno) received permission to conduct a research project with our research staff. Prof. Pistone and our institute were selected together with 24 other projects from various EU countries from among 622 applications. This project was the only Austrian project that was selected and it was for the first time ever that a research project in the field of legal studies was awarded. Up to € 1.2 mn. are provided for each project. We are happy that the EURYI Award will enable us to strengthen our research activities by having Prof. Pistone on our team in the future.

# Research Activities



## Publications in the Academic Year 2004/05

### Prof. Michael Lang | 1

1. Steuerexperten in der Finanzverwaltung, in der Beratung und den Unternehmen – Gemeinsame Ausbildung und durchlässige Karrierepfade? Österreichische Steuerzeitung 2004, p. 454 et seq.
2. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2004, p. 654 et seq.
3. Die Unterbetriebsstätte im Abgabenrecht, in Gocke/ Gosch/ Lang (ed.) Körperschaftsteuer Internationales Steuerrecht Doppelbesteuerung (Liber Amicorum in Honor of Franz Wassermeyer), Munich 2005, p. 709 et seq.
4. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2004, p. 825 et seq.
5. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2004, p. 987 et seq.
6. Kommunalsteuer und DBA, Tax Treaties and Municipal Tax, *Steuer und Wirtschaft International* 2005, p. 16 et seq.
7. VwGH zur Anwendung des § 22 BAO auf irische IFSC-Gesellschaften, *Steuer und Wirtschaft International* 2005, p. 67 et seq.
8. "Quellenprinzip" in Endres/ Oestreicher/ Scheffler/ Schreiber/ Spengel (ed.) Die internationale Unternehmensbesteuerung im Wandel – Symposium in Honor of Otto H. Jacobs, Munich 2005, p. 28 et seq.
9. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2005, p. 143 et seq.
10. Die Neuregelung der beschränkten Steuerpflicht nach dem Abgabenänderungsgesetz 2004, *Steuer und Wirtschaft International* 2005, p. 156 et seq.
11. Die verfassungsrechtlichen Rahmenbedingungen für Steueramnestien (co-author Judith Herdin-Winter), *Journal für Rechtspolitik* 2005, p. 52 et seq.
12. „Fictitious Income“ and tax treaties, in Henk van Arendonk/ Frank Engelen/ Sjaak Jansen (ed.) *A Tax Globalist* (Liber Amicorum in Honor of Maarten J. Ellis), *IBFD* 2005, p. 35 et seq.
13. Marks and Spencer – More Questions than answers – An Analysis of the Opinion Delivered by Advocate General Maduro, *EC Tax Review* 2005, p. 95 et seq.
14. Ist die Schumacker-Rechtsprechung am Ende? *Recht der Internationalen Wirtschaft* 2005, p. 336 et seq.
15. Wohin geht das Internationale Steuerrecht? *Internationales Steuerrecht* 2005, p. 289 et seq.
16. Der sachliche Anwendungsbereich der Doppelbesteuerungsabkommen auf dem Gebiet der Steuern vom Einkommen und vom Vermögen, in Lang/ Jirousek (ed.) *Praxis des Internationalen Steuerrechts* (Liber Amicorum in Honor of Helmut Loukota), Vienna 2005, p. 265 et seq.
17. Marks & Spencer und die Auswirkungen auf das Steuerrecht der Mitgliedstaaten, *Steuer und Wirtschaft International* 2005, p. 255 et seq.
18. Public Sector Pensions and Tax Treaty Law, in Gutmann (ed.) *Liber Amicorum in Honor of Cyrille David*, p. 223 et seq.
19. Die Kompetenzen von Bund, Ländern und Gemeinden bei der Regelung der Gemeindeabgaben auf Grund freien Beschlussrechts nach § 7 Abs 5 und § 8 Abs 5 F-VG, *Zeitschrift für Verwaltung* 2005, p. 175 et seq.
20. „Taxes Covered“ – What is a „Tax“ according to Art. 2 OECD Model Convention?, *Bulletin for International Fiscal Documentation* 2005, p. 216 et seq.



21. Die Befugnisse nach dem BundesforsteG in Hinblick auf die für den Bund verwalteten Liegenschaften, Österreichische Zeitschrift für Wirtschaftsrecht 2005, p. 53 et seq.
22. Doppelbelastung und Doppelbefreiung im grenzüberschreitenden Steuerrecht, in Becker/Schön (ed.) Sozialrecht und Steuerrecht, 2005, in press.
23. Die Besteuerung von Privatstiftungen in Österreich, in Thömmes/Lang/Schuch (ed.) Investitions- und Steuerstandort Österreich, p. 261 et seq., Munich 2005, p. 261 et seq.
24. Die historischen Wurzeln der DBA-Diskriminierungsverbote (co-author Friederike Oberascher), in Lang/Schuch/Staringer (ed.) Die Diskriminierungsverbote im Recht der Doppelbesteuerungsabkommen, 2005, in press.
25. Das EuGH-Urteil in der Rechtsache D – Gerät der Motor der Steuerharmonisierung ins Stottern?, Steuer und Wirtschaft International 2005, p. 365 et seq.
26. Die Aufhebung von Bescheiden wegen Widerspruchs zum Gemeinschaftsrecht gem. § 302 Abs 2 lit c BAO, in Holoubek/Lang (ed.) Abgabenverfahrensrecht und Gemeinschaftsrecht, Vienna 2005, in press.

27. Steuerschuld und Haftung bei der Kapitalertragsteuer, in Tanzer (ed.) Abgabenverfahrensrecht (Liber Amicorum in Honor of Gerold Stoll), Vienna 2005, in press.
28. Die umgekehrte Maßgeblichkeit nach § 6 Z 13 EStG in Lang/Schuch/Staringer (ed.) Handbuch des Bilanzsteuerrechts (Liber Amicorum in Memory of Wolfgang Gassner), Vienna 2005, in press.
29. Steuerrecht und Sozial(versicherungs)recht – Anmerkungen zum Schlussantrag in der Rs. Blanckaert (co-author Angelika Jettmar), Internationale Wirtschaftsbriefe, p. 741 et seq.
30. Das EuGH-Urteil in der Rechtssache Schempp – Wächst der steuerpolitische Spielraum der Mitgliedstaaten?, Steuer und Wirtschaft International 2005, p. 111 et seq.

#### Prof. Josef Schuch | 2

1. Hybride Finanzierungen im Recht der Doppelbesteuerungsabkommen, in Bertl et al. (ed.) Eigenkapital – Finanzierung, Basel II, Bilanzierung, Besteuerung, Reporting, Vienna 2004, p. 217 et seq.
2. Steuerliche Forschungsförderung bei Auslandsforschung (co-author Claudia Wehinger), ecolex 2005, p. 192 et seq.

3. Die abkommensrechtliche Verteilung der Besteuerungsrechte zwischen Ansässigkeits- und Quellenstaat aus dem Blickwinkel der gemeinschaftsrechtlichen Grundfreiheiten (co-author Michael Petritz) in Gassner/Lang/Lechner/Schuch/Staringer (ed.) Die Verteilung der Besteuerungsrechte zwischen Ansässigkeits- und Quellenstaat in den Doppelbesteuerungsabkommen, Vienna 2005, p. 123 et seq.
4. Die Besteuerung unternehmerischer Aktivitäten in Österreich, in Lang/Schuch/Thömmes (ed.) Investitions- und Steuerstandort Österreich – Chancen und Rahmenbedingungen für wirtschaftliche Aktivitäten, Munich 2005, p. 15 et seq.
5. Das Zusammenspiel von Aufsichtsrecht und Steuerrecht bei der Betriebsstättenbesteuerung im Financial Services Sektor, in Lang/Jirousek (ed.) Praxis des Internationalen Steuerrechts (Liber Amicorum in Honor of Helmut Loukota), Vienna 2005, p. 465 et seq.
6. Steuerliche Aspekte des Unternehmenskaufs in Österreich (co-author Bernhard Gröhs) in Deloitte (ed.) Unternehmenskauf im Ausland – Steuerliche Aspekte, Munich 2005, in press.



7. DBA- und EU-Diskriminierungsverbote und Verfahrensrecht (co-author Alexander Stieglitz), in Lang/Schuch/Staringer (ed.) Diskriminierungsverbote im Recht der Doppelbesteuerungsabkommen, Vienna 2005, in press.
8. Abschreibungen, in Lang/Schuch/Staringer (ed.) Handbuch des Bilanzsteuerrechts (Liber Amicorum in Memory of Wolfgang Gassner), Vienna 2005, in press.
9. Mitwirkungspflichten bei Auslandsbeziehungen, in Tanzer (ed.) Liber Amicorum in Honor of Gerold Stoll, Vienna 2005, in press.
10. Most-favoured nation treatment under the EC Treaty – a critical analysis of the ECJ „D-case“ decision, EC Tax Review 2005, in press.
11. Marktintegration durch Meistbegünstigung im EG-Steuerrecht, in Cordewener (ed.) Meistbegünstigung im Steuerrecht der EU Staaten, Munich 2005, in press.
12. Tax Treaties and EC Law, in IBFD (ed.) EC Corporate Tax Law, loose leaf, Amsterdam, in press.
13. The Taxation of Holding Companies in Austria (co-author Gerald Toifl), in Enchelmaier/Schindler (ed.) The Taxation of Holding Companies, loose leaf, Amsterdam, in press.

14. The Taxation of Permanent Establishments in Austria (co-author Gerald Toifl), in IBFD (ed.) The Taxation of Permanent Establishments, loose leaf, Amsterdam, in press.

#### **Prof. Claus Staringer | 1**

1. Wiederaufnahme und Vertrauensschutz, in Holoubek/Lang (ed.) Vertrauensschutz im Abgabenrecht, Vienna 2004, p. 299 et seq.
2. Eigen- und Fremdkapital im Steuerrecht, in Bertl/Eberhartinger/Egger/Gassner/Lang/Nowotny/Riegler/Schuch/Staringer (ed.) Eigenkapital, Vienna 2004, p. 253 et seq.
3. Grenzüberschreitende Verschmelzung, Umwandlung und Sitzverlegung nach dem Abgabenänderungsgesetz 2004, Steuer und Wirtschaft International 2005, p. 213 et seq.
4. Die wirtschaftliche Präsenz als maßgebendes Kriterium für die Festlegung des Quellenstaates nach den Doppelbesteuerungsabkommen (co-author Christine Obermair), in Gassner/Lang/Schuch/Staringer (ed.) Die Verteilung der Besteuerungsrechte zwischen Ansässigkeits- und Quellenstaat im Recht der Doppelbesteuerungsabkommen, Vienna 2005, p. 305 et seq.

5. Liquidation, Kapitalrückzahlung und Aktienrückerwerb im Recht der Doppelbesteuerungsabkommen, in Lang/Jirousek (ed.) Praxis des Internationalen Steuerrechts (Liber Amicorum in Honor of Helmut Loukota), Vienna 2005, p. 481 et seq.
6. Abschreibungsverbote für Beteiligungen im Konzern, in Bertl/Eberhartinger/Egger/Lang/Nowotny/Riegler/Schuch (ed.) Abschreibungen in Handels- und Steuerbilanz, Vienna 2005, in press.
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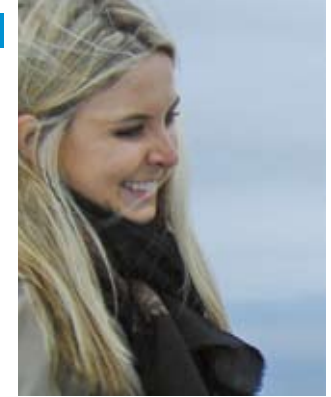
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## Doctoral Studies

Only a few doctoral candidates are admitted to our institute every year. Usually it takes them two to four years to complete their doctoral thesis. In the academic year 2004/05 two doctoral theses were approved by the professors of our institute.

### Recently approved doctoral theses:

- *Dr. Ines Hofbauer – Das Prinzip der Meistbegünstigung im grenzüberschreitenden Ertragsteuerrecht – Eine Betrachtung anhand des Internationalen Wirtschaftsrechts und des Rechts der Doppelbesteuerungsabkommen*
- *Dr. Christof Strasser – Die Auslegung von Quellenstaatsregelungen in Doppelbesteuerungsabkommen*

## Academic Awards

We are happy that a high percentage of doctoral theses completed at our institute received academic awards because of their high quality. In the academic year 2004/05 doctoral theses which had already been approved the year before received the following awards: Hans-Jürgen Aigner and Gerald Toifl received the Scientific Award of the Austrian IFA Branch for their books on "CFC Legislation and Tax Treaties" and "Partnerships in Tax Treaty Law"; Franz P. Sutter received the Wolff Theiss Award for his doctoral thesis on "State Aid and Tax Law" and received an Honorable mention in the Mitchell B. Carroll Prize; and Christof Strasser received a "Binder Grösswang-Fellowship".

## European Doctorate Seminar

In the academic year 2004/05 we made extra efforts to bring doctoral candidates from different countries together: From 7 to 10 January 2005 the first European Doctorate Seminar took place in our institute, held by Prof. Lang and Prof. Schuch. 25 doctoral candidates from 20 different countries accepted the

invitation to come to Vienna. They participated in a doctoral seminar on tax treaty law, and could present and discuss the topics of their doctoral theses as well. They were also invited to a cocktail reception at our institute and to an evening at a typical Viennese "Heurigen", hosted by the Austrian Federal Chancellor. This seminar is part of a joint initiative of our institute with the University of Leiden and the Stockholm School of Economics. These universities will continue to offer special courses for European doctoral candidates on European tax law and comparative tax law.





## Incoming Foreign Researchers

High level research is only possible if one is linked to the international scientific community. Therefore, we try to invite as many foreign researchers of a high reputation as possible to cooperate with us on our research projects. In our regular programme we had six visiting professors from abroad in the academic year 2004/2005, in our LL.M. programme in International Tax Law as many as 56 during the whole academic year. Many of them are also involved in our research projects.

Prof. Charles Blankart (Humboldt University, Berlin) joined us for a whole semester in winter 2004/05. He was sponsored by the Hayek Institute. Prof. Richard Beck (New York School of Law) spent his sabbatical at our department during the spring semester 2005. Eran Lempert, Assistant Professor at New York University School of Law spent some weeks in July and August 2005 with us to continue his research on multilateral tax treaties.

## Marie Curie Fellowship

The European Commission gave our institute permission to call itself a Marie Curie Training Site, the only one in International Tax Law so far. This enabled us to invite foreign doctoral students and young researchers to spend periods of between three and six months with us, reimbursed by the European Commission. In the academic year 2004/05 we had seven doctoral candidates with us.

### Marie Curie Fellows

- *Eva Prejs, Poland, "Harmonization of Tax Principles Applicable to Company Income in the European Union"*
- *Robin Helmke, Germany, "Harmonization of Tax Law within the European Communities"*
- *Jessica Salom, Switzerland, "The direct taxation of Partnerships according to the International Tax Laws"*
- *Arne Schnitger, Germany, "The borderline for the impact of the fundamental freedoms on the domestic tax law of the Member States"*
- *Krzysztof Gzyl, Poland, "The reconstruction of turnover taxation in the EU"*
- *Claudia Ilaria Neri, Italy, "Principles of corporate taxation in EU and harmonization"*
- *Lidija Hauptmann, Slovenia, "Impact of the IFRS on group taxation as a result of electronic commerce development"*

They were involved in our research projects and conferences, discussed their research ideas with us and became temporarily de facto part of our research team.

In the future, we have agreed with partners from the business world to support promising young researchers from Central and Eastern Europe, in order to give them an opportunity to spend a year with us, get involved in our research activities and learn how to conduct research activities in European and international tax law, with the purpose of being able to go home to their countries afterwards and contribute to the newly and rapidly developing academic efforts in tax law there. Out of 250 candidates, we selected Madalina Dana Cotrut (Romania) to be the OMV Research Fellow in International Tax Law for the academic year 2005/06. She started to work with us on 1 September 2005. The selection of the SIEMENS Research Fellow in International Tax Law is still going on. Candidates from 10 Central and Eastern European countries were able to apply.



## Outgoing Researchers

Cooperation with other academic institutions quite often requires accepting invitations abroad to be able to present the results of research projects at foreign universities. In the academic year 2004/05, professors and assistant-professors of our institute lectured at several academic institutions abroad. Prof. Lang gave lectures at the University of Mannheim and the University of Toronto, Prof. Schuch at the University of Osnabrück and the Max-Planck-Institute in Munich, Prof. Staringer at the University of Osnabrück and the University of Zürich.

In October 2004, a delegation from our institute, led by Prof. Schuch, travelled to Moscow to explore possibilities to cooperate with the Russian State Tax Academy. In February 2005, Prof. Schuch and a team of our assistant professors went to Prague to give a seminar on European and International Tax Issues at the University of Prague, in order to assist the colleagues in establishing courses in tax law. Prof. Lang gave a lecture at the General Assembly of the Deutsche Steuerjuristische Gesellschaft on 18 September 2005.

## Visiting professor

Prof. Lang was a Hauser Global Law Faculty Visiting Professor at New York University (NYU) Law School. He spent the second part of the spring term there (28 February to 1 May 2005) and taught courses on European tax law and tax treaty law.

## Involvement in International Academic Institutions

Prof. Lang is the President of the Austrian Branch of the International Fiscal Association (IFA); Prof. Schuch and Prof. Staringer serve as members of the Board. Prof. Lang is also a member of the Permanent Scientific Committee (PSC) of IFA.

In the academic year 2004/05 Prof. Schuch succeeded Prof. Lang as a member of the Academic Committee (AC) of the European Association of Tax Law Professors (EATLP), while Prof. Lang was appointed to be one of the four members of the Executive Board of EATLP.

Prof. Lang is also a member of the OECD Advisory Group on the OECD Model Convention in Paris and of the EU Tax Task Force of CFE (Confederation Fiscal Européenne). On 5 July 2005 he spoke as an expert at a workshop in Brussels on EC Law and Tax Treaties, organized by the European Commission. He has also been appointed as a member of the Scientific Advisory Council of the Deutsche Steuerjuristische Gesellschaft.

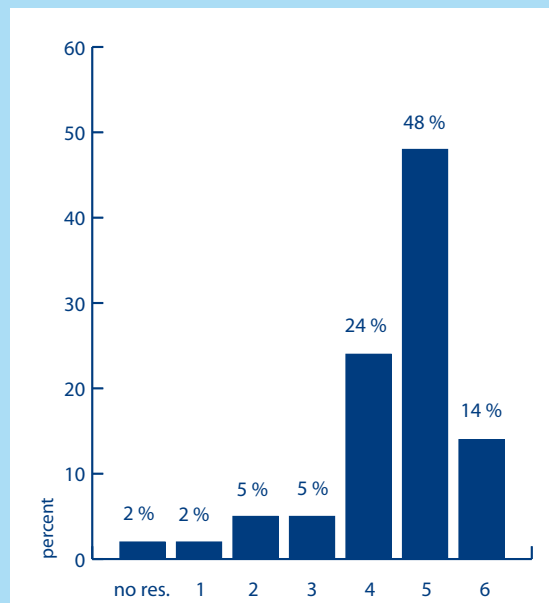


## Evaluation of Research

In June 2005 we asked alumni who had graduated within the last five years to evaluate our research.

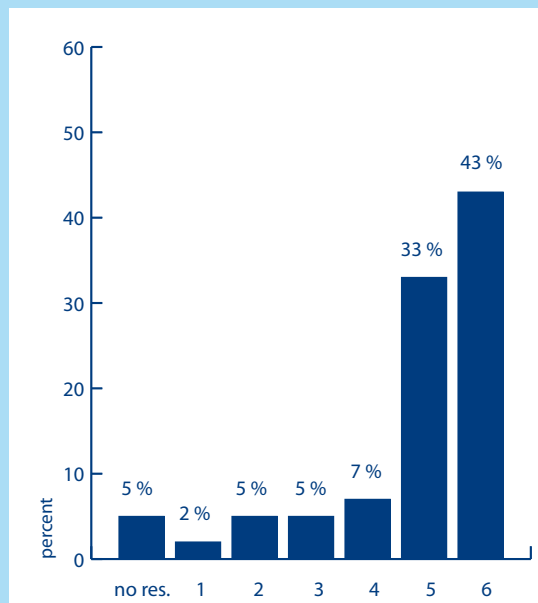
*“The research achievements of the members of the institute have a high practical relevance” (6= absolutely true, 1= not true)*

**Mean value: 4,4524**



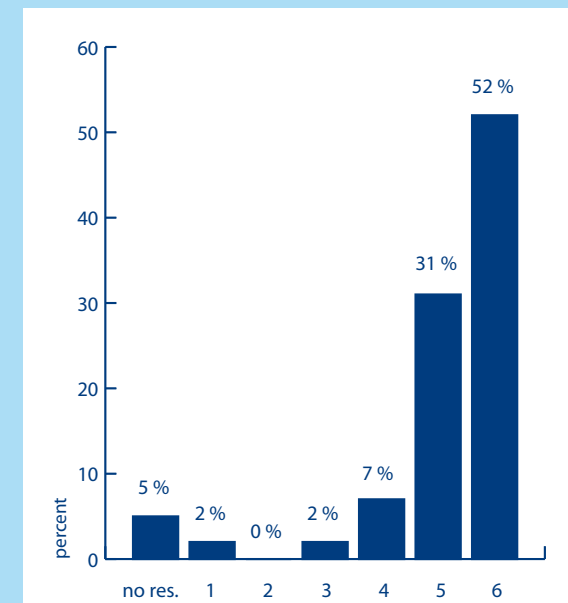
*“The institute’s reputation in research improves its alumni’s position on the labour market” (6=absolutely true, 1=not true)*

**Mean value: 4,7857**



*„The presence of guest lecturers and guest researchers improves the institute’s programme of lectures and seminars” (6=absolutely true, 1=not true)*

**Mean value: 5,0714**





# Disseminating Our Knowledge

## Book Series, Tax Journals

In the academic year 2004/05 a great many books were written or edited by the professors and assistant professors of our institute, most of them either with the Linde or Kluwer publishing houses. In October 2004, after Prof. Gassner's death, Prof. Lang, Prof. Schuch and Prof. Staringer took over responsibility as editors of the famous "Series on Austrian Tax Law", originally founded by Prof. Stoll. Prof. Lang is the editor of "Series on International Taxation" with 37 volumes; he also continued to be the editor of "SWI" (Steuer und Wirtschaft International), a tax journal specialising in international tax law. Prof. Schuch is also one of the editors of *ecolex*, a journal on business law and tax law.

## Staying in touch with students, graduates and other practitioners

It is extremely important for us to stay in touch with our students, our graduates and other practitioners. Every semester we provide – with the support of Linde Publishing House free of charge – all our students with a guide of 80 pages on contents and organisational details of all the courses we offer. Five years ago we started to build up a data base of our students, in order to provide them with as much information as possible, and to continue to be in touch with them after their graduation. In addition, we provide approx. 5,000 people with our electronic newsletter and send them our magazine TAX LAW WU on a quarterly basis, to provide them with information about the activities of our institute. It is always our pleasure to invite our alumni and other practitioners to special lectures. We see it as our obligation to support our former students in their attempt to continue learning. Furthermore, the participation of practitioners is to the benefit of our regular students, since their questions usually touch upon a lot of practical relevant issues. We are happy that more and more former students are accepting our invitation to return to our institute as often as possible. We especially appreciate that many of our graduates took the time to participate in our seminars, conferences and sympo-

siums, to listen to the presentation of our research results and to discuss them with us.

## LL.M. in International Tax Law

Our LL.M. programme in International Tax Law is also designed for our graduates who have already gained experience in practice. Although we have more and more students from abroad, almost 20% of the full-time students and even more than 60% of the part-time students came from Austria in 2004/05 (admitted part-time-students for 2005/07: just 44 % Austrians). Thus, there are still opportunities for our graduates to specialise further with us. The high percentage of foreigners makes the programme even more interesting for our own graduates.



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## Seminars for Practitioners

### Tax Treaty Courses

In January 2005 we offered a six-day seminar on tax treaty law to our graduates and other interested practitioners. This offer was very well received, for the fourth year in a row. We made use of the specialisation of our research staff in international tax law. As a result, 16 members of our research team shared know-how with interested practitioners. For the young members of our research team this was a good opportunity to learn how to adapt their research ideas to the needs of practitioners.

### Seminars in Cyprus

Prof. Schuch led a delegation of our institute to Cyprus from 3 October to 5 October 2004, where they lectured on EC Tax Law and Tax Treaty Law. During the past years our institute, chaired by Prof. Gassner, was very heavily involved in Cypriot tax reforms and assisted this country in preparing for accession to the European Union. As a result, our institute is still very welcome to give lectures on recent developments in European and international tax law in Cyprus and did so again in September 2005.

## Summer Conference

The 4th International Tax Law Summer Conference, held by our institute in Rust (Burgenland) from 10 to 14 July 2005, was also an opportunity to spread the knowledge and experience of the members of the research team of our institute to practitioners coming from all parts of the world.

## Helping Practitioners Search for Literature and Case Law

Our institute hosts the Research and Documentation Centre for Tax Law. Many firms are members and make use of the support of the research staff of this centre, consisting of our excellent and very experienced students. They collect literature and case law on selected topics for the members, upon request. The membership fees are used to improve further the quality of our library.

## Contacts with Academics and Practitioners from around the World

During the academic year 2004/05, we took many opportunities to show academics and practitioners all over the world that our research facilities are open for them. On 18 November 2004 and 1 June 2005 we invited participants in OECD seminars for tax treaty negotiators to cocktail receptions at our institute to show them the library and inform them about our research and teaching activities.

During the IFA Congress in Buenos Aires (10-17 September 2005), we invited the participants to a reception to inform them about our LL.M. programme in International Tax Law and other activities of our institute.

Furthermore, we used the presence of European doctoral candidates in Vienna for our doctoral seminar to invite them to use our library.

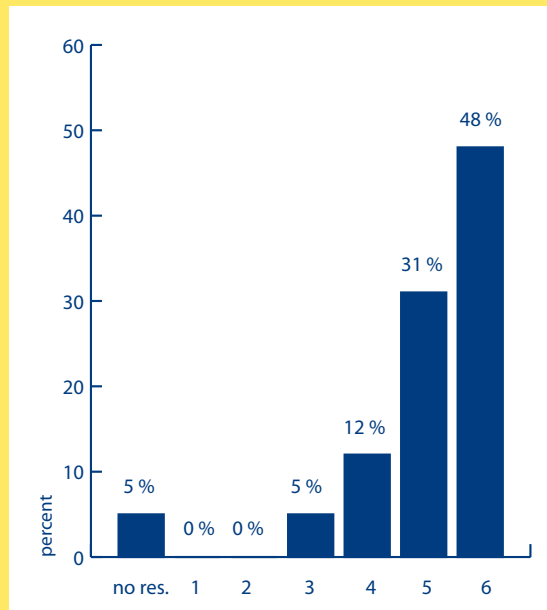
# minating Our Knowledge



## Evaluation of Offering Services to Alumni

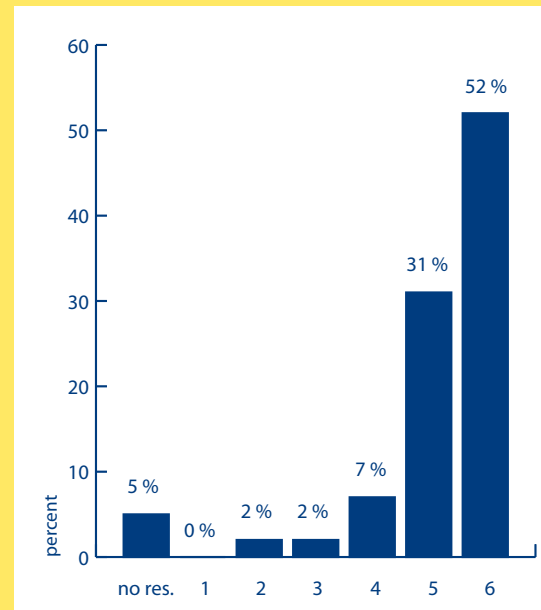
*"I am highly satisfied with the overall services offered by the Institute of Austrian and International Tax Law" (6=absolutely true, 1=not true)*

**Mean value: 5,0238**

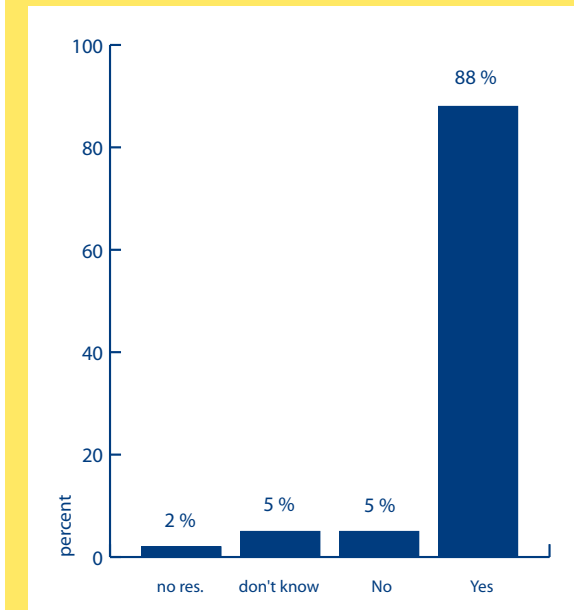


*„Overall, I am highly satisfied in the institute’s efforts to inform its alumni and students permanently" (6=absolutely true, 1=not true)*

**Mean value: 5,0952**



*"If I could choose the elective in my studies again, would I choose the Institute of Austrian and International Tax Law again?"*





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## Evaluation Report by Foreign Experts

In June 2005 a research application was evaluated by a group of international experts. Parts of this evaluation concerned our institute, as the proposed host institution. Excerpts from this evaluation report read as follows:

... The host institution, the Institute for Austrian and International Tax Law at the Vienna University of Economics and Business Administration is a highly recognised centre of international tax research ...

... The University of Economics and Business Administration has emerged as one of Europe's top research centres on the field of European and International tax law. ...

... The hosting institution is one of the most acknowledged research institutions in this field of law. ...

... The host institution (Wirtschaftsuniversität Wien) is a very active and definitely one of the most respected institutions involved in the research of international and European taxes in Europe. No other university is as active in organizing internationally respected high level conferences and seminars in the field. ...