



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

Report of the Academic Activities

2005/06





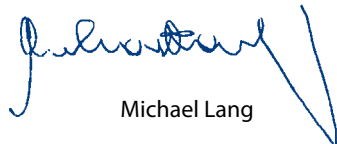
Preface

The Institute for Austrian and International Tax Law is among the largest academic institutions in the world doing research on and teaching about tax law. We are proud to be part of the Vienna University of Economics and Business Administration (Wirtschaftsuniversität Wien, WU). To a large extent we are financed by the Wirtschaftsuniversität Wien as well as by 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 2005/06 were provided by external sources. We are grateful to the taxpayer and to all our sponsors and partners and feel obliged 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

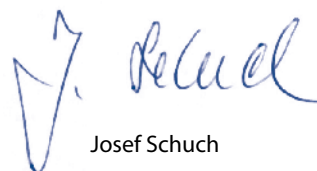
this money and on the results we have achieved. We hope to be able to show that the funds are being used very efficiently.

In this report we present our activities in the academic year 2005/06, which started on 1 October 2005 and ended 30 September 2006.

Our main fields of interest are corporate tax law, international and European tax law. Most of our research activities deal with issues in these areas. This is true for our teaching activities as well. On a daily basis we are cognizant 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. Therefore, both research and teaching focus mainly on corporate tax law and international tax law.



Michael Lang



Josef Schuch



Claus Staringer





Staff

Professors:

Prof. Michael Lang
Prof. Josef Schuch
Prof. Claus Staringer
Prof. Pasquale Pistone (EURYI Award)

Assistant Professors:

Patricia Brandstetter
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Bernhard Fölhs (starting in July 2006)
Dr. Katharina Haslinger (until May 2006)
Sabine Heidenbauer (starting in October 2005)
Judith Herdin-Winter (until October 2005)
Matthias Hofstätter
Daniela Hohenwarter, LL.M.
Dimitar Hristov
Christoph Ledinek (starting March 2006, until July 2006)
Vanessa Metzler, LL.M.
Marie-Ann Mamut
Friederike-Sophie Oberascher
Christine Obermair
Patrick Plansky
Johannes Prillinger (starting in July 2006)
Gernot Ressler
Christoph Schlager (starting in November 2005)
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Mario Tenore
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Prof. Wolfgang Ellinger
Doz. Dr. Philip Göth
Judith Herdin-Winter (from October 2005)
Dr. Katharina Haslinger (from April 2006)
Doz. Dr. Robert Hofians
Dr. Ines Hofbauer
Dr. Martin Jann
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Dr. Otto Plückhahn
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Martina Koller
Elisabeth Rossek



Teaching

Teaching Activities in the Regular Program

Two basic courses in tax law are mandatory for most students in the regular program of our university. The Institute for Austrian and International Tax Law offers these courses and organizes the exams. In the academic year 2005/06 3,360 students took the exams in the courses "Tax Law I" and "Tax Law II". 2,814 students passed the exams.

Students at our university have many different options for specialization. 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 specialize 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 taxation; they can then choose among some courses on special issues such as reorganization tax law, criminal tax law, procedures in tax law, etc. They finalize their studies in "Corporate tax law" by participating in a seminar on select-

ed 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 2005/06 we had lectures on ECJ case law and its influence on direct taxes in Sweden (Prof. Dahlberg, Uppsala University), jurisprudential perspectives of income tax law (Prof. Prebble, Victoria University, Wellington/New Zealand), the U.S. tax system (Prof. Mason, NYU), ECJ and direct taxation (Prof. Lyal, European Commission) and on Polish national and international tax law (Prof. Nykiel and Kardach, Lodz/Poland). The final course the students must take is a seminar dealing with recent tax treaty issues.



Tax Law Electives

Course	Exams taken in 2005/06
Income Tax Law (in 12 courses)	333
VAT (in 11 courses)	283
Seminar on Recent Tax Law Issues (in six courses)	203
Corporate Tax Law (in two courses)	58
Reorganization Tax Law	11
Criminal Tax law	22
Procedural Tax Law (in two courses)	22
Seminar on Recent Corporate Tax Law Issues (in two courses)	46
Tax Treaty Law (in two courses)	72
European Tax Law (in two courses)	32
US Tax System	49
Polish Tax Law	10
Jurisprudential Perspectives of Tax Law	13
Seminar on Recent European Tax Law Issues	26
Seminar on Recent Tax Treaty Law Issues	26



Students at our university are required to write a master's thesis, usually 80 – 100 pages. They try to find an institute where they can work 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 2005/06, 13 master theses were approved by Prof. Lang, Prof. Schuch and Prof. Staringer.

New Bachelor- and Master Programs

Currently, our university is replacing all first-degree programs with bachelor and master programs. In doing this, the Vienna University of Economics and Business Administration has adopted the three-cycle system promoted by the Bologna process. Starting with the academic year 2006/2007, the new law program "Business Law" will be introduced. In this new law program, tax law is taught in three mandatory lectures. Furthermore, students may opt for additional lectures in European Tax Law and in Business Tax Law.

Special Activities Offered to Students

Every year the six best students at our institute participate in the EUCOTAX (European Universities Cooperating on Taxes) Program. EUCOTAX is a network consisting of the tax law institutes of universities in London, Paris (Sorbonne), Barcelona, Stockholm (School of Economics), Tilburg, Leuven (Catholic University), Washington D.C. (Georgetown), Budapest, Rome (LUISS), Osnabrück and Vienna (WU). In the academic year 2005/06, the EUCOTAX conference was held in Tilburg from 31 March to 7 April 2006. The general subject was "Group Taxation". Prof. Michael Lang, Matthias Hofstätter and Vanessa Metzler supported and supervised our students, who participated in workshops and presented the results of their master theses. They had been selected in June 2005 and started to write their master's theses directly in English. During the winter semester 2005/06 a special seminar was organized 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. 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's theses and gave her comments how the language could be improved.

Topics of the EUCOTAX Masters Theses:

1. *General Aspects of Tax Consolidation (conditions, consequences)*
2. *Loss Compensation within a Group*
3. *International Tax Aspects: Entitlement to DTCs, Distribution Rules, Non-Discrimination*
4. *Group Taxation as a Reorganisation Device*
5. *IFRS in Connection with Commercial Taxation and Consolidated Tax Base*
6. *VAT Aspects of a Group*





Since our institute has been involved in the EUCOTAX program since 1998, we took part in a "Moot Court Competition" on European and International Tax Law that was organized by the Universities of Leuven/Belgium and Tilburg/Netherlands. The competition was held from 5 to 11 March 2006 in Leuven. 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. This year's team (Daniela Demschnr, Patrick Plansky, Hermann Schneeweiss and Jasmin Zankl, coached by Prof. Staringer and Daniela Hohenwarter) won the competition and was additionally awarded for the best written memorandum on behalf of the applicant and for the best written memorandum on behalf of the defendant. As in the EUCOTAX program, the participants enjoyed language training by Margaret Nettinga and attended a special seminar as part of their preparation. Moreover, the students who participated at this program, may write their master's theses based on the topics of the moot court.

Topics of the Moot Court on European and International Tax Law

- 1. The Compability of Limitation-on-Benefit Clauses with the Fundamental Freedoms of EC Law*
- 2. Limitation-on-Benefit Clauses in Tax Treaties and their potential Infringement of EC Law with special Emphasis on the Question of State Liability*



PwC-WU-Seminar on European Tax Law

In cooperation with PricewaterhouseCoopers, the Institute for Austrian and International Tax Law held a seminar on Current Issues on European Tax Law, where numerous scholars from Europe and the U.S. were invited to do a presentation for selected students as well as practitioners and other researchers. As the topics of the seminar are selected just a few weeks before the seminar date, discussions are always up-to-date and deal with the most recent ECJ-case law. Since this seminar series was a great success, it will be held again next year.





Topics of PwC-WU Seminar in 2005/06

- Prof. Michael Lang, Institute for Austrian and International Tax Law: Double Taxation and EC Law
- Prof. Peter Fischer, Presiding Judge at the German Federal Tax Court, Munich: Der EU-Bürger zwischen Grundfreiheiten und Finanzierungsverantwortung
- Prof. Peter Cussons, PwC London: The UK leading the fight at the European Court of Justice
- DDr. Georg Kofler, LL.M.: Johannes Kepler University Linz, Die Auswirkung von Doppelbesteuerungsabkommen auf die gemeinschaftsrechtliche Diskriminierungsprüfung
- Prof. Laurens Narraina, PwC Belgium: Recent ECJ Case Law and its Direct Tax Implications on Belgian Business
- Michael Schilcher, Institute for Austrian and International Tax Law, Marks & Spencer: EuGH zur grenzüberschreitenden Verlustverwertung im Konzern
- Prof. Pascal Hinny, LL.M., University of Freiburg (Switzerland): Einfluss der bilateralen Verträge mit der EU und insbesondere des Personenverkehrsabkommens auf das Schweizer Steuerrecht
- Vanessa Metzler, LL.M., Institute for Austrian and International Tax Law: Das Diskriminierungsverbot des Personenfreizügigkeitsabkommen mit der Schweiz
- Prof. Ekkehard Reimer, University of Heidelberg: Grenzüberschreitende Gemeinnützigkeit? – Vor der Entscheidung des EuGH im Fall „Centro di Musicologia Walter Stauffer“ (Rs C-386/04)
- Michel Taly, PwC Landwell Advocats, Paris: Recent ECJ Case Law: A U-turn?
- Prof. Jürgen Lüdicke, PwC Hamburg and University of Hamburg: Widerstreitende EuGH-Urteile zur Freiheit der Rechtsformwahl?
- Dr. Dirk Buschle, EFTA-Court, Luxembourg: Dividendenbesteuerung in der europäischen Rechtsprechung: Das Urteil „Fokus Bank“ des EFTA-Gerichtshofes.
- Prof. Ruth Mason, NYU School of Law: US Tax Treaties & the ECJ
- Philippe Martin, Conseil d'État, Paris: Residence and Free Movement of Capital
- Prof. Frans Vanistendael, University of Leuven: The most recent Case Law of the ECJ – In which Direction is the Court heading?
- Prof. Frank Engelen, University of Leiden and PwC: EC Tax Law Disparity, Dislocation and Discrimination

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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 as well as inside. An example of this is the talk we had with Prof. Ian Roxan (London School of Economics) on “Constructing the Role for the European Court of Justice in Taxation” and Prof. Catherine Brown (University of Calgary/Canada) on “Tax Discrimination in the NAFTA Block: The Impact of Tax and Trade Agreements on the Cross Border Provision of Services”.

With more than 20,000 students, the WU is a very large university. Therefore, we try our utmost to establish close relationships with our students. Several initiatives have been taken to achieve this goal. Every semester we invite our students to a typically Austrian wine tavern (“Heuriger”) for a dinner buffet. On this occasion we present our teaching and research program for the following semester and try to get in touch with our students outside the lecture rooms. This year these events were sponsored by the Hayek Institute and the Vienna Stock Exchange.

Furthermore, we invite speakers to give a talk on subjects that are relevant but not exclusively related to tax law: On 24 November we had an evening on New Zealand with Prof. Prebble, from the University of Wellington. BDO Auxilia hosted a buffet afterwards. On 17 January, Rudolf Schuppeler, cartoonist, gave a vernissage at our institute featuring tax law cartoons; the buffet afterwards was sponsored by Bank Austria Creditanstalt. After her lecture on 4 May “The U.S. Tax System – Fiscal Federalism in the U.S. in Comparison to Europe”, Prof. Ruth Mason (NYU, School of Law) gave a talk on life in America (“The American Way of Life”); Coca Cola sponsored a dinner buffet.

Excursion to Zurich

Another such initiative was our excursion to Zurich from 29 June to 2 July 2006. This excursion was sponsored by Deloitte. Students were also invited to apply to participate. The institute selected 19 of the best students. They were joined by the institute’s staff. In Zurich the group of 45 researchers and students had the opportunity to join the “5. Zürcher Tagung für europäisches und internationales Steuerrecht”, where, among others, members of our institute gave speeches. In addition, the group participated in discus-

sions with representatives of Swiss universities and the tax authorities. We attended cocktail receptions and dinners sponsored by Swiss law firms and banks (Homburger, Kendris private AG, UBS), the Swiss Bankers Association as well as by ISIS (Institut für Schweizerisches und Internationales Steuerrecht) and the University of Zürich. A sightseeing program, including the picturesque Old Town in Luzern and Zürich, concluded this trip.

Career Perspectives for Students

On 15 November 2006 – together with TPA, BDO Auxilia and Leitner+Leitner – our institute invited students for a panel discussion on the future perspectives of the profession “tax adviser” where they had the opportunity to ask questions to experienced practitioners on current and future issues and developments on this topic. More than 150 students attended this event.



LL.M. Program in International Tax Law

Our institute has been offering an LL.M. program in International Tax Law since 1999 that enjoys a high reputation worldwide. In the academic year 2005/06 a one-year full time program started in September 2005 and ended in July 2006. A two-year part-time program started as well in September 2005 and will finish in July 2007. For the full time program starting in September 2006 we admitted 27 students, but had almost three times as many excellent candidates. The applicants came from 28 different countries, of which 60% from outside Europe, with 42 % from Asia and 10 % from North or South America. The biggest number of applicants came from India (27 %), Austria (13 %) and China (6 %). For all new students, a welcome reception was held for all new students on 1 September 2006.



Graduates from all over the world



Scholarship

ERSTE Bank and PRESSE provided funds for a scholarship for the full-time program starting in September 2006. Stephan Kienberger was selected in March 2006 and received a cheque of EUR 9,450.

International Faculty

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

233 students have graduated from our LL.M. program 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. Ute Surbier-Hahn (Germany) took over the presidency of the Alumni Club from Frank Mortier (Belgium). The General Assembly, which took place on 13 January and 14 January 2006, 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.



Teaching

LL.M. International Tax Law Faculty 2005/06:

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 Michiels – 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



In May 2006, a special "alumni meeting" took place on the occasion of 03/04 full-time graduate Sashi Tulsyian's wedding with his wife Sonal in Kalkutta. (first row from the left: Sashi Tulsyian and wife Sonal, 2nd row: Koen van Ende (Belgium, full-time 03/04), Imke Gerdes (Germany, full-time 03/04), Vanessa Metzler (Austria, full-time 03/04), Daniela Hohenwarter (Austria, full-time 03/04); 3rd row: Roman Lang (Germany, part-time 03/05), Dennis de Jong (Netherlands, full-time 03/04), Maxim Sokolov (Russia, full-time 03/04), Barbara Mair (Austria, full-time 03/04)

Special Research Program "International Tax Coordination"

In October 2003 a Special Research Program ("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, are working closely together on the project. In the academic year 2005/06 our institute contributed to projects on non-discrimination, ECJ case law, harmonization of tax bases in Europe and compliance costs.



International Tax
Coordination **SFB**



Research Activities

Conferences

ECJ – Pending Cases

From 13 to 15 October 2005, we organized a conference to discuss the cases pending before the ECJ in connection with the fundamental freedoms with respect to direct taxation and the possible consequences of future ECJ decisions. About 160 leading experts in European tax law accepted our invitation to attend. The results of this conference have been published in a book. Since we had a very positive response from practitioners and academics such a conference on this topic will be repeated in February 2007.



Group Taxation

The topic of group taxation has always been a very important part of the research activities of the Institute for Austrian and International Tax Law. Since a new group taxation regime was introduced last year in Austria last year, a conference on this topic was held on 28 November 2005 in which a number of the institute's researchers held presentations on a large range of issues about this topic. A book on this conference is to be published soon.

Common principles of general procedural law and tax 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 18 and 19 November 2005 on the topic "Common principles of general procedural law and tax procedural law". Well-known colleagues from

other Austrian and foreign universities contributed to the conference. A book containing all the papers has just been published recently.

Tax Law and Accounting

On 21 and 22 April 2006 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 to attend and heard a number of very interesting lectures on the general topic "Intangible Assets".

Tax Treaty Law

On 19 June 2006 the 13th Viennese Symposium on International Tax Law was organized by our institute. In cooperation with colleagues from other universities (e.g. Prof. Tumpel, Linz and Prof. Lehner, Munich) the research staff at our institute presented the results of their research on the topic of "Tax Treaties and Community Law". The 14 lectures held at that symposium will be published in a book.



Jean Monnet Conference

From 6 to 9 July 2006 our institute invited 90 researchers from all over the world to an EU-sponsored “Jean Monnet Conference” which focused on compliance and administrative costs of taxation in an enlarged European Union. Tax scientists, law experts as well as economists from several European countries, but also from New Zealand, Russia and North America took part. A questionnaire was prepared by the research staff of our institute and was sent out three months before the conference. Researchers from 25 countries prepared reports on the legal situation in their countries. These reports were discussed at the conference. The papers will be published in a book.

Tax Law Summer Conference

On 9 to 13 July 2006 we organized the “5th International Tax Law Summer Conference” in Rust, Burgenland. We have been organizing this type of conference on an annual basis since 2000. The conferences focus on a discussion of case studies on very recent issues in international tax law (such as conflicts of characterization, 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. The participants were leading practitioners and academics from different continents.

Wolfgang Gassner Memorial Lectures

On 3 October 2005 and 15 May 2006 lectures were given in the honor of Prof. Wolfgang Gassner. At the lecture in October 2005, Prof. Franz Wassermeyer spoke on requirements in community and treaty law for group taxation and Prof. Claus Staringer presented the results of his study on the influence of group taxation in corporate governance. At the second Wolfgang Gassner Memorial Lecture, in May 2006, Prof. Peter Fischer gave a presentation on current tendencies of tax avoidance. This lecture was followed by a discussion on this topic by Doz. Nikolaus Zorn and Prof. Michael Lang.



SUMMER CONFERENCE





Research Projects

In the academic year 2005/06, 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, Bank Austria Creditanstalt and the National Fund of the Republic of Austria for Victims of National Socialism

- *International taxation of employees*
- *Taxation of alternative remuneration schemes for cross-border activities*
- *Vienna as international location for the new EU- Member States*
- *Taxation and capital markets*
- *Empirical study on the case law of the Austrian Administrative Court*
- *The tax case law of the German Reichsfinanzhof in the National Socialist era.*
- *Data base of historic materials on double tax treaties (in cooperation with the OECD, IBFD, Catholic University of Piacenza, IFA Canada and Canadian Tax Foundation)*

EURYI Award

At the beginning of the winter semester 2005/06, we were informed by the European Science Foundation (ESF) and the EUROHORCS (European Heads of Research Councils) that this years' 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 chosen. Up to EUR 1.2 mn. are provided for each project. We are happy that the EURYI Award enables us to strengthen our research activities by having Prof. Pistone in our team in the future.



Prof. Pistone had his inaugural lecture on 21 February 2006 on the topic "The Impact of European Tax Law on the Relations with Third Countries". Commentators were Prof. Fantozzi (Rome), Prof. van Raad (Leiden) and Prof. Lang, Prof. Schuch and Prof. Staringer.

Prof. Lang, Prof. Schuch, Prof. Staringer and Prof. Pistone are preparing a conference on "EU and Third Countries" which is scheduled for 12-14 October 2006.



Publications in the Academic Year 2005/06



Prof. Michael Lang

1. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2005, p. 658 et seq.
2. Die Auswirkungen des EuGH-Urteils vom 10.3.2005, Rs C-491/03, Hermann, auf die Erhebung von Getränkesteuern in Österreich, Part 1: Österreichische Steuerzeitung 2005, p. 503 et seq., Part 2: Österreichische Steuerzeitung 2005, p. 548 et seq.
3. Steuerschuld und Haftung auf dem Gebiet der Kapitalertragsteuer, in Tanzer (ed.) *Die BAO im 21. Jahrhundert (Liber Amicorum in Honor of Gerold Stoll, Vienna 2005)*, p. 167 et seq.
4. Die Aufhebung von Bescheiden wegen Widerspruchs zum Gemeinschaftsrecht gemäß § 302 Abs 2 lit c BAO, in Holoubek/Lang (ed.) *Abgabenverfahrensrecht und Gemeinschaftsrecht 2006*, p. 257 et seq.
5. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2005, p. 954 et seq.
6. Marks & Spencer – Eine erste Analyse des EuGH-Urteils, *Steuer und Wirtschaft International* 2006, p. 3 et seq.
7. Steueranrechnung und Betriebsstättendiskriminierungsverbot der DBA - Schwierige Fragen bei Dreiecks-sachverhalten (co-authors Jürgen Lüdicke and Peter Riedweg), *Der Schweizer Treuhänder* 2006, p. 66 et seq.
8. Doppelbelastung und Doppelbefreiung im grenzüberschreitenden Steuerrecht, in Becker/Schön (ed.) *Steuer- und Sozialstaat im europäischen Systemwettbewerb, Munich 2006*, p. 215 et seq.
9. The Mark & Spencer Case – The Open Issues Following the ECJ's Final Word, *European Taxation* 2006, p. 54 et seq.
10. Zuschreibungsmaßgeblichkeit, in Lang/Schuch/Staringer (ed.) *Handbuch des Bilanzsteuerrechts (Liber Amicorum in Memory of Wolfgang Gassner), Vienna 2005*, p. 475 et seq.
11. Steueranrechnung und Betriebsstättendiskriminierungsverbot der DBA bei Dreiecks-sachverhalten (co-authors Jürgen Lüdicke and Peter Riedweg), *Internationales Steuerrecht* 2006, p. 73 et seq.
12. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2006, p. 163 et seq.
13. Die gemeinschaftsrechtlichen Rahmenbedingungen für "Exit Taxes" im Lichte der Schlussanträge von GA Kokott in der Rechtssache N., *Steuer und Wirtschaft International* 2006, p. 213 et seq.
14. Jüngste Tendenzen in der Rechtsprechung des EuGH zur Bedeutung der Grundfreiheiten für die direkten Steuern, *Zeitschrift für Schweizerisches und Internationales Steuerrecht* 2006, 28.04.06.
15. Die Geldleistung an eine Gebietskörperschaft als Kriterium des finanzverfassungsrechtlichen Abgabenbegriffs, in Akyürek/Baumgartner/Jahnel/Lienbacher/Stolzlechner (ed.) *Staat und Recht in europäischer Perspektive (Liber Amicorum in Honor of Heinz Schäffer), Salzburg 2006*, p. 411 et seq.



16. Rechtsprechungsübersicht Verfassungsgerichtshof (co-author Michael Holoubek), *ecolex* 2006, p. 338 et seq.
17. Wer hat das Sagen im Steuerrecht? Die Bedeutung des OECD-Steuerausschusses und seiner Working Parties, *Österreichische Steuerzeitung* 2006, p. 203 et seq.
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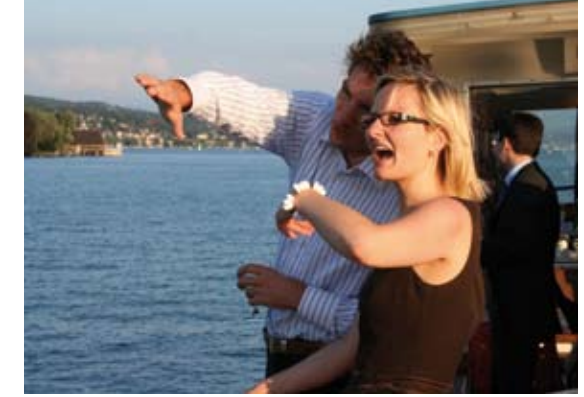
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Doctoral Studies

Only a few doctoral candidates are admitted to our institute every year. It usually takes them two to four years to complete their doctoral theses. In the academic year 2005/06 five doctoral theses were approved by the professors at our institute.

Recently approved doctoral theses:

Dr. Eva Burgstaller, Mitarbeiter/innen-Stock-Options im Recht der Doppelbesteuerungsabkommen

Dr. Katharina Haslinger, Die Veräußerung von Beteiligungen – Beurteilung des geltenden Rechts und Ausblick auf eine Neukonzeption

Dr. Walter Loukota, Gemeinschaftsrechtliche Grundfreiheiten und beschränkte Steuerpflicht

Dr. Markus Stefaner, Hinzurechnungsbesteuerung und gemeinschaftsrechtliche Grundfreiheiten

Dr. Tobias Stricker, Schnittmenge zwischen WTO-Völkerrecht und Steuerrecht

Academic Awards

We are very proud of the fact that a high percentage of doctoral theses completed at our institute received academic awards due to their high quality. In the academic year 2005/06 doctoral theses that had already been approved the year before received the following awards: Ines Hofbauer received the “Wolfgang Gassner Science Award”, the “Walther Kastner Award” as well as the “Deloitte Award” for her doctoral thesis on the topic of most-favored nation treatment. For her doctoral thesis on employee stock options, Eva Burgstaller received the “Wolfgang Gassner Young Scientists Award”. Both doctoral theses were published in Prof. Lang’s Book Series on International Taxation. Moreover, Michael Schilcher received the “Talenta 2005 Award” for his master’s thesis on subject-to-tax clauses. For his master’s thesis on Freedom of Capital and Third Countries, Patrick Plansky received the “Talenta 2006 Award”.





Incoming Foreign Researchers

High-level research is only possible if close links to the international scientific community are established. Therefore, the Institute for Austrian and International Tax Law tries to invite as many foreign researchers of high reputation as possible to cooperate with us on our research projects. In our regular program we had five visiting professors from abroad in the academic year 2005/06, in our LL.M. program in International Tax Law as many as 31 during the entire academic year. Many of these are also involved in our research projects.



Eran Lempert, Assistant Professor at New York University, did research at our institute for his PhD thesis on inter-relationships between multilateral treaty and bilateral tax treaties at our Institute from July to August 2005. Elif Simsek from Turkey did research for her dissertation "Cross-border reorganizations" at the Institute from December 2005 to June 2006. From Spain, Caesar Dominguez from Spain worked on his PhD thesis "The ability to pay principle and the EC-non discrimination principle" at our Institute from January to March 2006. In July and August 2006, Prof. Pedro Herrera from Spain did research in Vienna on "Relation between double-tax conventions and EC law". In July 2006, Prof. Catherine Brown (University of Calgary) spent a week at our institute to do research on discrimination issues in tax law.

Marie Curie Fellowship

The European Commission has granted our institute the permission to be called a "Marie Curie Training Site", the only one in International Tax Law so far. This has enabled us to invite foreign doctoral students and young researchers to spend periods of three to six months with us, reimbursed by the European Commission. In the academic year 2005/06 we had two doctoral candidates.



Marie Curie Fellows

- Jennifer Farrell, UK, "The relationship between the World Trade Organisation and aspects of both international tax and domestic systems"
- Eva Prejs, Poland, "Harmonization of Tax Principles Applicable to Company Income in the European Union"

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 while they were with us.



Research Fellowships in International Tax Law

The Institute for Austrian and International Tax Law has 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, so that they can return home 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. SIEMENS sponsored a Research Fellow in International Tax Law as well. The SIEMENS Research Fellowship was awarded to Juditha Holczerova from Slovakia. She started working at our Institute on 1 January 2006 and will stay for 12 months. A third Research Fellowship is sponsored by Mondi Packaging. Mondi Packaging also sponsors a 12-month research fellowship for young researchers from the Czech Republic and Poland. The selected Fellow will start working at our institute in autumn 2006.

Outgoing Researchers

Prof. Lang gave presentations at the Swiss Association of Tax Law Professors in Luzern; he also gave presentations in Lund, Zürich, Freiburg, Tilburg and Cologne. Moreover, Prof. Lang held speeches at the Bocconi University in Milan, the University of Michigan, at the Stockholm School of Economics and in Budapest. In May 2006, Sabine Heidenbauer, Matthias Hofstätter and Patrick Plansky took part in the panel at the European Union Tax Law student conference at Queen Mary College in London. Together with Prof. Pistone, Vanessa Metzler held a presentation in February 2006 at the University of Lausanne. Furthermore, Prof. Lang, Prof. Schuch, Prof. Staringer, Daniela Hohenwarter, Vanessa Metzler and Patrick Plansky gave presentations at the Zürich Conference on European Tax Law. Together with Prof. Staringer, Daniela Hohenwarter spoke at the Conference in Milan on International Tax Law in November 2005. Prof. Schuch, Michael Schilcher and Vanessa Metzler gave lectures in Limassol/Cyprus on 26 and 27 October 2005. From February 2006 to May 2006, Friederike Oberascher had a three month research stay at the University of California at Berkeley in the US. Sabine Domes, Matthias Hofstätter and Gernot Ressler represented our institute at the EATLP doctoral candidates seminars in Leiden and Stockholm. Christine Obermair and Patrick Weninger had a four-months research stay at the Boston College Law School, in US for their doctoral theses.

Visiting Professor

Prof. Lang was a Visiting Professor at Bocconi University in Milan. He gave a lecture 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.

Prof. Schuch is member of the Academic Committee (AC) of the European Association of Tax Law Professors (EATLP), while Prof. Lang serves as one of the five members of the Executive Board of EATLP and has been appointed chair man of the Academic Committee 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 (Confédération Fiscale Européenne) and a member of the Scientific Advisory Council of the Deutsche Steuerjuristische Gesellschaft.



Disseminating Our Knowledge

Book Series, Tax Journals

In the academic year 2005/06 many books were written or edited by the professors and assistant professors of our institute, most of them with the Linde or Kluwer publishing houses. Prof. Lang, Prof. Schuch and Prof. Staringer are editors of the "Series on Austrian Tax Law", originally founded by Prof. Stoll. Prof. Lang is the editor of "Series on International Taxation" presently made up of 42 volumes; he also continued to be the editor of "SWI" (Steuer und Wirtschaft International), a tax journal specializing 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, graduates and other practitioners. Every semester we provide – with the support of the Linde Publishing House free of charge – all our students with a guide of 80 pages on contents and organizational 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 stay in touch with them after they graduate. 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 give them 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 continuing education. Furthermore, the participation of practitioners is to the benefit of our regular students, since their questions usually touch on many of relevant practical 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

the fact that many of our graduates have taken the time to participate in our seminars, conferences and symposiums, to listen to the presentation of our research results and to discuss them with us.

LL.M. in International Tax Law

Our LL.M. program 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 25% of the full-time students and even more than 40% of the part-time students came from Austria in 2005/06. Thus, there are still opportunities for our graduates to specialize further with us. The high percentage of foreigners makes the program even more interesting for Austrian graduates.



Seminars for Practitioners

Tax Treaty Courses

In January 2006 we offered a six-day seminar on tax treaty law to our graduates and other interested practitioners. This seminar was very well received, for the fifth year in a row. For the first time we offered the course in English only. As a result, we had participants from all parts of Europe and even other parts of the world. We made use of the specialization 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 22 September to 23 September 2005, where they lectured on Recent Developments in EC Tax Law and Tax Treaty Law. During the past years our institute, chaired by Prof. Gassner, was very deeply involved in the Cypriot tax reforms and assisted Cyprus 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 will do so again in October 2006.

Summer Conference

The 5th International Tax Law Summer Conference, held by our institute in Rust (Burgenland) from 9 to 13 July 2006, was also an opportunity to convey 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 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 further improve the quality of our library.

Contacts with Academics and Practitioners from around the World

During the academic year 2005/06, we took many opportunities to show academics and practitioners all over the world that our research facilities are open to them. On 16 November 2005, 31 May 2006 and 27 June 2006, 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 Amsterdam (17-21 September 2006), we invited the participants to a reception to inform them about our LL.M. program in International Tax Law and other activities of our institute.

Participation in Expert Hearings

On invitation of the Austrian Parliament, Prof. Lang took part at an expert hearing on tax abuse and tax fraud in Austria in May 2006. Moreover, he participated at a hearing on the Common Consolidated Corporate Tax Base (CCCTB) on 7 December 2005 in Brussels that was hosted by the European Commission.



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