



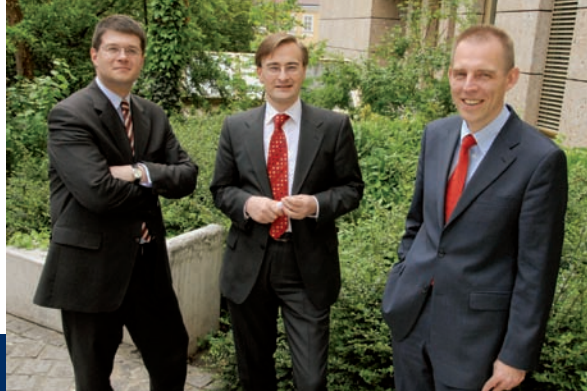
Institute for Austrian and  
International Tax Law **Vienna**

# Report of the Academic Activities

2008/09

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





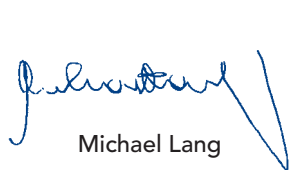
# Preface

This report presents the activities of the Institute for Austrian and International Tax Law during the academic year 2008/09, which started on 1 October 2008 and ended on 30 September 2009. It was a very successful year for our Institute and for the team as a whole.

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 WU (Vienna University of Economics and Business). To a large degree, we are financed by WU as well as by the Austrian taxpayer. However, to a growing extent, we have been getting funds from Austrian and European research institutions, from our partners in the business sector and from private and corporate sponsors. For example, more than two thirds of the funds we spent on our library in the academic year 2008/09 were provided by external sources. We are grateful to the taxpayer and to all our

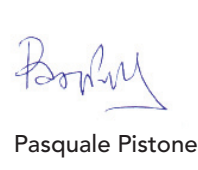
sponsors and partners and feel obliged to them. Thus, we want to take this opportunity to report to them, to our students and alumni and to our friends and colleagues in the international scientific community on how we spend this money and on the results we have achieved. We hope to be able to show that the funds are being used very efficiently.

Our main fields of interest are corporate tax law, international tax law 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 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. Therefore, both research and teaching focus mainly on corporate tax law and international tax law.

  
Michael Lang

  
Josef Schuch

  
Claus Staringer

  
Pasquale Pistone

  
Alfred Storck

# Staff

## Professors:

- Prof. Michael Lang
- Prof. Josef Schuch
- Prof. Claus Staringer
- Prof. Pasquale Pistone (EURYI Award)
- Prof. Alfred Storck (from April 2009)

## Administrative Director:

Maria Sitkovich-Wimmer

## Assistant Professors:

- Elke Aumayr (from January 2009)
- Francesco Avella, LL.M. (from November 2008 until June 2009)
- Florian Brugger
- Bernhard Canete
- Veronika Daurer (from October 2008)
- Kasper Dziurdz
- Thomas Ecker
- Martin Eckerstorfer
- Eva Geißler (from November 2008)
- Martina Gruber





Oliver-Christoph Günther, LL.B.  
 Sabine Heidenbauer, LL.M.  
 Daniela Hohenwarter, LL.M.  
 Thomas Horvath (until March 2009)  
 Franz Koppensteiner, LL.M.  
 Katharina Kubik  
 Marie-Ann Mamut (until April 2009)  
 Christian Massoner  
 Lisa Paterno  
 Shauna Pittman, LL.B., LL.L. (from January until June 2009)  
 Patrick Plansky (until March 2009)  
 Johannes Prillinger  
 Karin Simader  
 Birgit Stürzlinger  
 Dr. Mario Tenore  
 Elisabeth Titz  
 Nicole Tüchler (from November 2008)

### Lecturers:

Dr. Hans-Jörgen Aigner  
 Josef Bauer  
 Patricia Brandstetter  
 Dr. Eva Burgstaller  
 Prof. Dr. Wolfgang Ellinger

Bernhard Foelhs  
 Dr. Katharina Haslinger  
 Judith Herdin-Winter  
 Dr. Ines Hofbauer-Steffel  
 Dr. Heinz Jirousek  
 Prof. Dr. Helmut Loukota  
 Roland Macho  
 Vanessa Metzler, LL.M.  
 Dr. Gernot Ressler  
 Dr. Michael Schilcher  
 Prof. Dr. Walter Schwarzinger  
 Dr. Markus Stefaner  
 Dr. Franz Philipp Sutter  
 Dr. Gerald Toifl  
 Prof. Dr. Werner Wiesner  
 Dr. Mario Züger

### Research and Documentation Center:

Elke Aumayr (until December 2008)  
 Eva Geißler (until November 2008)  
 Katharina Hebenstreit (from February 2009)  
 Ina Kerschner (from May 2009)  
 Katharina Kreuz (from December 2008)  
 Katharina Richter (from January 2009)

### Tutors:

Meliha Hasanovic (from March until June 2009)  
 Katharina Hebenstreit (until February 2009)  
 Elisabeth Hütter (until February 2009)  
 Julia Kolar (from March until June 2009)  
 Claudia Putz (from March until June 2009)

### Research Fellows:

Malgorzata Joanna Sek (Mondi Packaging Research Fellowship) (from November 2008)  
 Marta Uss (TPA-Horvath-CEE-Research Fellowship) (until September 2009)

### Administrative Staff:

Gabriele Bergmann  
 Tchoubrinka Jekova (maternity leave)  
 Astrid Mathias  
 Renée Pestuka  
 Erika Reinprecht  
 Elisabeth Rossek  
 Petra Zaussinger (from September 2009)

Staff



# Special Activities 2008/2009

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2008-10-09	Update on Recent ECJ Case Law	Prof. Claus Staringer	39
2008-10-09/10	Seminar in Cyprus „Recent Developments in European and International Tax Law“	Prof. Josef Schuch	40
2008-10-09/11	Tax Treaty Course, TPA Tax Academy	Research staff of the Institute	39
2008-10-10	SFB Research Seminar, Start-up		17
2008-10-21	Round Table „Balancing Member States Sovereignty to Levy Direct Taxes against the Freedom of Movement within the EC: Allowed and Prohibited Tax Impediments to the Functioning of the Internal Market“	Maria Cruz Barreiro	38
	„Cross Border Loss Relief within the European Union“	Paolo Stizza	38
2008-10-22	Semesteropening		13
2008-10-24	SFB Research Seminar „Distribution of Incomes Among Dividends, Retained Earnings, and Taxes“	Prof. Christian Bellak, Dr. Markus Leibrecht, Dr. Michael Wild, Claudia Hochgatterer, Adriana Nikolic	17
2008-10-24	Klaus Vogel Lecture „Tax Treaties and Schrödinger’s Cat“	Jacques Sasseville	16
2008-10-25	LL.M. Alumni Reunion	Jacques Sasseville, Michel Aujean	16
2008-10-27	PwC-WU Seminar „Receiving Income from Branches and Transparent Partnerships“	Gabriella Erdós	11
	„Das steuerliche Bankgeheimnis: Gefährdung durch Behörden oder Banken?“	Prof. Robert Waldburger	11
2008-10-28	Tax Library Talk „Liechtenstein und Steuern“	Marco Felder	38
2008-10-27/28	Guest Lecture „Tax Harmonization in Europe“	Michel Aujean	8
2008-11-03	Tax Library Talk „US Double Taxation Conventions – Recent Developments“	Prof. David Rosenbloom	38
2008-11-04	Round Table „Das gemeinschaftsrechtliche Beihilfenrecht“	Prof. Michael Lang	38
2008-11-07	SFB Research Seminar „CCCTB – Mögliche Elemente des Aufteilungsmechanismus“	Katharina Kubik, Christian Massoner, Dr. Martin Zagler	17
2008-11-10	Panel Discussion „Tax Competition in Central and Eastern Europe – A Race to the Bottom?“	Philippe Kermode, Prof. Christian Bellak, Wojciech Sztuba, Renata Blahova, Erki Uustalu, LL.M.	38
2008-11-13	IFA Event „Die Anrechnungs- und die Befreiungsmethode in den österreichischen Doppelbesteuerungsabkommen“	Prof. Jürgen Lüdicke, Prof. Guglielmo Maisto, Dr. Heinz Jirousek, Veronika Berecz	37
2008-11-17	Round Table „§ 8 KStG: Verdeckte Ausschüttungen“	Birgit Stürzlinger	38
	„§ 24 KStG: Erhebung der Steuer“	Florian Brugger	38
2008-11-18	Round Table „Moot Court Case“	Katharina Kubik	38
2008-11-20	Annual SWI Conference		37
2008-11-21	SFB Research Seminar „Corporate Taxation and Corporate Governance“	Marko Köthenbürger	17
2008-11-21/22	Conference „Procedural Law and Constitutional Law“, Vienna		17
2008-11-24	PwC-WU Seminar „Die EuGH-Rechtsprechung zum direkten Steuerrecht – Aktuelle Entwicklungen im Bereich der grundfreiheitsrechtlichen Rechtfertigungsgründe“	Prof. Hanno Kube, LL.M.	11
	„Aktuelle Entwicklungen auf dem Gebiet der Mehrwertsteuer – Ort der Einbringung von Dienstleistungen, Regelung der Erstattung von Mehrwertsteuer, Maßnahmen zur Bekämpfung des Steuerbetrugs“	Prof. Johannes Heinrich	11
2008-11-24/25	BFH Moot Court, Munich	Prof. Claus Staringer, Bernhard Canete	11







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2008-11-25	Update on Recent ECJ Case Law	Prof. Michael Lang	39
2008-12-01	Tax Lunch Talk „Recent Developments in Canada: Permanent Establishments“	Shauna Pittman, LL.B., LL.L.	38
2008-12-02	Presentation of Diploma Paper „Die chinesischen Doppelbesteuerungsabkommen mit Asien und Australien“	Georg Dietrich	9
2008-12-04	PwC-WU Seminar „Selected Treaty and EC Tax Law Issues related to Direct Taxation in Estonia“ „The Effect of ECJ Judgments in the National Legal Order“	Erki Uustalu, LL.M. Sjoerd Douma	11 11
2008-12-10	Panel Discussion „Die Praxis der Steuerberatung – Karriereperspektiven in einem dynamischen Umfeld“	Prof. Michael Lang and Tax Partners of Accounting Firms	13
2008-12-11	Round Table „Die Durchsetzbarkeit von MAP Vereinbarungen“ „Schwierigkeiten bei der Ermittlung des Abgabepflichtigen im Falle einer Steuerrückerstattung“	Franz Koppensteiner, LL.M. Karin Simader	38 38
2008-12-12	SFB Research Seminar „A Comparative Examination of the Australian VAT Reduced Input Tax Credits System for Financial Supplies and VAT Developments in the EU“	Dr. Michael Walpole, Katharina Kubik	17
2008-12-17	Presentation of Diploma Paper „Der Vergleich zwischen dem zollrechtlichen Verfahrensrecht und dem Abgabenverfahrensrecht“	Xianan Zhou	9
2008-12-19	SFB Research Seminar „Steuerpatente“	Brigitte Muehlmann, Ines Grangl	17
2008-01-12	Online Presentation of the LL.M. Program	Prof. Michael Lang	14
2009-01-12/13	Guest Lecture „US Tax Law“	Prof. Ruth Mason	8
2009-01-14	Tax Lunch Talk „Made in America for European Tax: The Internal Consistency Test“	Prof. Ruth Mason	34
2009-01-16	SFB Research Seminar „The GlaxoSmithKline Case and its Relevance in Europe“	Jean-Pierre Vidal, Bernhard Canete	17
2009-01-19	Round Table „Privatinvestorgrundsatz und Steuerbeihilfen“	Marie-Ann Mamut	38
2009-01-19/24	Tax Treaty Course „The Practice of Double Tax Treaties in Case Studies“	Research staff of the Institute	39
2009-01-21	Semesterclosing		13
2009-01-22	IFA Event „Die jüngsten Änderungen des OECD-Musterabkommens und des Kommentars“	Prof. Helmut Loukota, Prof. Michael Lang	37
2009-01-26	PwC-WU Seminar „Subsidiaries and Commissionnaires as Permanent Establishments“ „Article 24 MC: Past, Present, Future“	Prof. Daniel Gutmann Cees Peters	11 11
2009-01-26	Online Presentation of the LL.M. Program	Prof. Michael Lang	14
2009-02-09	Round Table „Tax Treaties – The Solution to VAT/GST Double Taxation“	Thomas Ecker	38
2009-02-13/16	EATLP Seminar on Tax Treaty Law	Research staff of the Institute	35
2009-02-16/17	Guest Lecture „US Tax Law and Policy“	Prof. Charles Gustafson	8
2009-02-18	Tax Lunch Talk „Recent Tax Developments in Brazil“	Luciana Gambi, LL.M.	38
2009-03-01/08	Moot Court on European and International Tax Law, Leuven	Katharina Kubik, Prof. Claus Staringer	10
2009-03-09	Book Presentation „Kommentar zum Körperschaftsteuergesetz (KStG)“	Prof. Michael Lang, Prof. Josef Schuch, Prof. Claus Staringer	37
2009-03-10	Semesteropening		13





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2009-03-13	SFB Research Seminar „China und das OECD Musterabkommen“	Bernhard Canete	17
2009-03-13/14	DACH Tax Congress		37
2009-03-16	KPMG-Workshop „Funktionsverlagerungen bei Vertriebs- und Produktionsgesellschaften“	Sabine Bernegger, Birgit Stürzlinger, Dr. Ferdinand Kleemann	13
2009-03-17/21	International Conference „Tax Treaties between China and Europe“, Beijing	Research staff of the Institute	17
2009-03-23	PwC-WU Seminar „Group Interest Rules & Enforcement Convenants: Spectacular Assets to Dutch Tax Competition Policy“ „Die Auswirkungen der jüngeren Rechtsprechung des EuGH zur Durchbrechung der Rechtskraft auf das Abgabungsverfahren“	Prof. P. H. J. Essers Dr. Martin Köhler	11 11
2009-03-25	IFA Austrian General Assembly, Presentation of National Reports	Dr. Stefan Bendlinger, Horst Bergmann	37
2009-03-26/28	International Conference „Value Added Tax and Direct Taxation – Similarities and Differences“, Vienna		18
2009-03-27	SFB Research Seminar „Tax Distortions in Financial Structure: Should Europe move towards ACE or CBIT?“	Ruud de Mooij, Dr. Michael Wild	17
2009-03-30	Update on Recent ECJ Case Law	Prof. Pasquale Pistone, Prof. Michael Lang, Prof. Josef Schuch, Prof. Claus Staringer	39
2009-03-31	Round Table „Die griechische DBA-Politik aus dem Blickwinkel der Besteuerung von Zinsen“	Natalia Paxinou	38
2009-04-03	SFB Research Seminar „Economic Development of Developing Countries and Taxation“	Prof. Pasquale Pistone, Dr. Michael Wild	17
2009-04-08	Round Table „Das Zahlstellenkonzept in der Zinsen-Richtlinien“	Elisabeth Titz, Katharina Kubik	38
2009-04-14/23	Eucotax Conference: Barcelona	Prof. Michael Lang, Bernhard Canete, Thomas Ecker	10
2009-04-16/18	Tax Treaty Course, TPA Tax Academy	Research staff of the Institute	39
2009-04-17/18	IFA Meeting Austria/Switzerland	Prof. Michael Lang, Prof. Helmut Loukota	37
2009-04-24/25	Conference „Wiener Bilanzrechtstage“	Prof. Claus Staringer, Prof. Josef Schuch	18
2009-04-27	PwC-WU Seminar „Europarechtliche Fragen im Zusammenhang mit steuerlichen Subventionen“ „Recent Developments Regarding the Treaty Treatment of Cross-border Dividends“	Prof. Heinz-Jürgen Pezzer Prof. Roland Brandsma	11 11
2009-04-29	Tax Lunch Talk „Recent Tax Developments in Italy“	Francesco Avella, LL.M.	38
2009-05-04	Round Table „Die Rechtssache Persche“ „Gleichwertigkeit von Anrechnungs- und Befreiungsmethode aus gemeinschaftsrechtlicher Sicht“	Veronika Daurer Christian Massoner, Birgit Stürzlinger	38 38
2009-05-04	Panel Discussion „Steuerliche Expertise als Kompetenz des Rechtsanwalts?“	Prof. Michael Lang and Tax Partners of Law Firms	13
2009-05-07/09	Conference „18. Österreichischer Steuerrechtstag“	Christian Massoner, Birgit Stürzlinger	18
2009-05-11	Round Table „Recent ECJ Cases on the Free Movement of Capital“	Daniel Smit	38
2009-05-14	Update on Recent ECJ Case Law	Prof. Josef Schuch	39
2009-05-15	SFB Research Seminar „Thin-Capitalization Rules and Company Responses“	Prof. Alfons Weichenrieder, Prof. Pasquale Pistone	17
2009-05-15	Wolfgang Gassner Memorial Lecture	Prof. Frans Vanistendael, Prof. Pasquale Pistone	18





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2009-05-16	Annual Walking Trip of the Institute	Institute staff	
2009-05-18	KPMG-Workshop „Besteuerung von Beteiligungen“	Dr. Katharina Haslinger, Elisabeth Titz, Christoph Plott	13
2009-05-21	Tax Lunch Talk „Swiss Corporate Tax Update / Introduction to the New German Inheritance and Gift Tax“	Mike Degrandi, Daniel Dinkgraeve	38
2009-05-25	PwC-WU Seminar „Recent Tax Developments in the Financial Services Industry“	Stijn Vanoppen	11
	„Das objektive Nettoprinzip – Basis eines konsensfähigen Steuersystems“	Prof. Monika Jachmann	11
2009-05-29	SFB Research Seminar „Staatsfonds und Besteuerung“	Isabell Claus, Christian Polster	17
2009-06-08	Round Table „Steuerbefreiung nach § 6 Abs 1 Z 27 UStG auch für im übrigen Gemeinschaftsgebiet ansässige Kleinunternehmer?“	Kasper Dziurdz	38
2009-06-12	Round Table „Umfang der abzugsteuerpflichtigen Einkünfte gem § 99 EStG bei beschränkter Steuerpflicht des Empfängers im Lichte des verfassungsrechtlichen Gleichheitssatzes“	Bernhard Canete	38
	„The Maze of China's Transfer Pricing Regime: the Rules, Operating Features and Challenges“	Linghui Ren	38
2009-06-12	Round Table „Customs Control“	Dmitrij Chajkovskij	38
	„Tax Competition and Investment Attraction Problems“	Siarhei Yerameyevich	38
	„Poland – Tax Heaven for Tax Planning“	Marcin Lachowicz	38
2009-06-15	Round Table „Die Haftung des Abzugsverpflichteten“	Oliver-Christoph Günther LL.B., Lisa Paterno	38
2009-06-15	PwC-WU Seminar „Progress in Abolishing Double Taxation in the Internal Market“	Volker Heydt	11
	„The Taxable Person Acting as such under EC VAT Law“	Christine Weinzierl-Sonnleitner	11
2009-06-19	Conference „Sixteenth Viennese Symposium on International Tax Law“ Quellensteuern – Der Steuerabzug bei Zahlungen an ausländische Empfänger	Research staff of the Institute	18
2009-06-22	Semesterclosing		13
2009-06-22/23	Tax Treaty Course, Tax Treaty Interpretation, Mumbai	Prof. Pasquale Pistone	39
2009-06-27/30	Excursion to Slovenia	Institute staff, best students	13
2009-07-01/03	Tax Treaty Course, The Practice of Double Tax Treaties in Case Studies – Senior Level Course	Research staff of the Institute	39
2009-07-02/04	International Conference „Procedural Law in the Context of Community Law and Domestic Law“, Rust		18
2009-07-05/09	8th International Tax Law Summer Conference „Recent Developments in Tax Treaty Practice – the Case Study Conference“, Rust		19
2009-07-13/17	CEE Vienna International Tax Law Summer School	Research staff of the Institute	36
2009-07-15	Round Table „Taxing Foreign Mergers“	Domingo Jesus Jimenez-Valladolid de L'Hotellerie-Fallois	38
2009-08-05	Round Table „Anti-abuse Measures in Turkish Tax Treaties“	Selcuk Ozgenc	38
2009-08-05	Round Table „Der Einfluss des EG-Rechts auf das schweizerische Mehrwertsteuerrecht unter besonderer Berücksichtigung des Leistungsortes, der ausgenommenen Umsätze und der Steuersätze“	Ralf Imstepf	38
2009-08-05	Round Table „The Balanced Allocation of Taxing Powers“	Marcel Schaper	38







# Teaching

## Teaching Activities in the Regular Program

The basic course "Introduction to Tax Law" is mandatory for most students in the regular program of our university. The Institute for Austrian and International Tax Law offers this course and organizes the exams. In the academic year 2008/09, about 2400 students took the exams in the 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" on individual and corporate tax law, VAT and legal protection of the taxpayer. The mandatory program ends with "Advanced Topics in Tax Law" which is a seminar on selected recent issues. Those students who want to specialize further may decide to take "European Tax Law" and may further choose among certain courses on special subjects such as reorganization tax law, procedural tax law, etc. In the Bachelor Program in Business, Economics and Social Sciences, "Introduction to Tax Law" is mandatory for most students. Every student is required to write a bachelor thesis of about 20 pages. Each semester, the

Institute provides a main topic which is divided into several sub-topics from which the students may choose.

The Master Program in Business Law, which focuses on a comprehensive theoretical and practical education in Austrian, European and international business law, provides for three mandatory courses in tax law: In "Corporate Tax Law", the students take a basic course on corporate income taxation. "International Tax Law" deals with the application of double taxation conventions. In "Foreign Tax Law", the students may choose between courses dealing with developments in international tax law and in foreign tax jurisdictions. In the academic year 2008/09, we had lectures on "US Tax Law" (Prof. Charles Gustafson, Georgetown University), "Business Reorganization" (Prof. Caroline Silberstein, Transfer Pricing Unit OECD Centre for Tax Policy and Administration), "Tax Harmonization in Europe" (Michael Aujean, formerly European Commission) and "US Tax Law" (Prof. Ruth Mason, University of Connecticut). Finally, our Institute offers an "Advanced Seminar on Tax Law". For this advanced elective, the students may choose between a seminar on selected recent issues in corporate tax law and a seminar on selected issues in tax treaty law. Every student is obliged to prepare a master's thesis where the students have to demonstrate their ability to independently treat a topic with the help of academic research

methods. Ambitious and interested students are invited to write a tax-related master's thesis at our Institute.

In the old curriculum, which is the predecessor of the new Bachelor and Master Programs and which will be phased out by 2011, students have several 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 may then choose among certain courses on special issues such as reorganization tax law, criminal tax law, procedural tax law, etc. They finalize 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 may choose between courses on developments in European and foreign tax law. In the final course the students take a seminar dealing with recent tax treaty issues. Students in the old curriculum are required to write a diploma thesis of about 80 – 100 pages. They try to find an institute where they can work on a topic in which they are interested. Our Institute, like most others, primarily accepts those students who had the best grades in the courses offered by our Institute. In the academic year 2008/09, 16 diploma theses were approved by Prof. Michael Lang, Prof. Josef Schuch and Prof. Claus Staringer.

### Tax Law Courses

Course.....	Registrations in 2008/09
Introduction to Tax Law (in 6 courses) .....	2400
Basic Topics in Tax Law (in 14 courses).....	415
Income Tax Law (in 8 courses).....	281
VAT (in 9 courses).....	364
Seminar on Advanced Topics in Tax Law (in 6 courses).....	691
Corporate Tax Law (in 2 courses).....	39
Reorganization Tax Law.....	39
Procedural Tax Law (in 2 courses).....	44
Transfer Pricing.....	21
Seminar on Recent Corporate Tax Law Issues..... (in 3 courses).....	59
Tax Treaty Law (in 2 courses).....	85
European Tax Law (in 2 courses).....	36
Tax Harmonization in Europe.....	17
US Tax Law and Policy (in 2 courses).....	32
Business Restructuring.....	14
Seminar on Recent European Tax Law Issues (in 2 courses).....	18
Seminar on Recent Tax Treaty Law Issues (in 2 courses).....	47
Tax Planning in Global Companies.....	4

### Books for Students

Our Institute provides material accompanying most of these courses and giving guidance to the students. In September 2009, we published the eighth edition of our book “Einführung in das Steuerrecht” (Introduction to Tax Law), edited by Prof. Michael Lang, Prof. Josef Schuch and Prof. Claus Staringer. In October 2008, we published the first edition of the book “Introduction to European Tax Law on Direct Taxation”, edited by the same team. An English version of Prof. Lang’s book on tax treaty law is forthcoming.







## Special Activities Offered to Students

### EUCOTAX

Every year the six best students at our Institute participate in the EUCOTAX program (European Universities Cooperating on Taxes). EUCOTAX is a network consisting of the tax law institutes of universities in London (Queen Mary University), Paris (Sorbonne), Barcelona (Universitat de Barcelona), Uppsala (School of Economics), Tilburg (Tilburg University), Leuven (Katholieke Universiteit Leuven), Washington D.C. (Georgetown University), Budapest (Corvinus University), Rome (LUISS Guido Carli University), Osnabrück (Universität Osnabrück) and Vienna (WU). In the academic year 2008/09, the EUCOTAX conference was held in Barcelona from 14 to 23 April 2009. The general subject was "The Limits to Tax Planning – Minimizing Taxes and Corporate Social Responsibility". Prof. Michael Lang, Bernhard Canete and Thomas Ecker supported and supervised our students (Michaela Franzl, Martina Gruber, Florian Huber, Barbara Ivancsits, Philipp Mayr and Andreas Theuerer). These students participated in workshops and presented the results of their master's

theses. They were selected in June 2008 and started to write their master's theses in English. During the fall term 2008/09, a special seminar was organized to allow them to discuss their work and to receive 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 on how the language could be improved.

#### Topics of the EUCOTAX Master's Theses 2008/09:

1. *General Anti-avoidance Rules and Doctrines*
2. *Anti-base Erosion Rules*
3. *Treaty Shopping*
4. *Anti-deferral Rules*
5. *Implementation of EC Directives' Anti-avoidance Rules*
6. *Disclosure Rules*



### Moot Court on European and International Tax Law 2008/09

In 2009, we again took part in the Moot Court Competition on European and International Tax Law that is jointly organized by the Universities of Leuven and Tilburg. The competition was held from 1 to 8 March 2009 in Leuven. A moot court is a fictitious court before which teams of students play the roles of applicant and defendant and argue their case. This year's team (Andreas Kampitsch, Christina Pichler, Elisabeth Titz and Linda Witek, coached by Prof. Claus Staringer and Katharina Kubik) entered the semi-finals after an excellent performance in the preliminary rounds. 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 in this program may write their master's theses based on the topics of the moot court. The 2009/10 student team was selected in June 2009. The preparations under the supervision of Prof. Claus Staringer and Katharina Kubik are under way.





## BFH Moot Court on German Tax Law


Under the auspices of the German Federal Fiscal Court (Bundesfinanzhof) and the Deutsche Steuerjuristische Gesellschaft (DStJG) we were invited to participate in the BFH Moot Court on German tax law for the second time. The competition took place in Munich from 24 to 25 November 2008. Our team (Eva Geißler, Elisabeth Hütter, Karoline Spies and Bernadette Ujvári, coached by Prof. Claus Staringer and Bernhard Canete), which was the only team from a foreign university, was ranked third after the teams of the University of Heidelberg and the University of Münster.

## BDO Best Presentation Award

Once again, we honored those students who gave the best presentations at our seminars: The BDO Best Presentation Award went to Meliha Hasanovic, Ina Kerschner and Arno Zimmermann for the fall term and to Michaela Autherith, Peter Csoklich and David Eisenle for the spring term. We officially announced the winners at our semester closing, organized in cooperation with BDO Auxilia.

## PwC-WU Seminar on European and International Tax Law


In cooperation with PricewaterhouseCoopers, the Institute for Austrian and International Tax Law held a seminar series on Current Issues in European and International Tax Law. Numerous distinguished scholars were invited to give 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 actual seminar date, discussions are always up-to-date and also deal with the most recent case law of the European Court of Justice (ECJ). This seminar was held for the first time in 2005/06. Because this seminar series was a great success, it will be held again next year.



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### Speakers and Topics of the PwC-WU Seminar in 2008/09

- Gabriella Erdös: Receiving Income from Branches and Transparent Partnerships
- Prof. Dr. Robert Waldburger: Das steuerliche Bankgeheimnis: Gefährdung durch Behörden oder Banken?
- Prof. Dr. Hanno Kube, LL.M.: Die EuGH-Rechtsprechung zum direkten Steuerrecht – Aktuelle Entwicklungen im Bereich der grundfreiheitsrechtlichen Rechtfertigungsgründe
- Prof. Dr. Johannes Heinrich: Aktuelle Entwicklungen auf dem Gebiet der Mehrwertsteuer – Ort der Einbringung von Dienstleistungen, Regelung der Erstattung von Mehrwertsteuer, Maßnahmen zur Bekämpfung des Steuerbetrugs
- Sjoerd Douma: The Effect of ECJ Judgments in the National Legal Order
- Erki Uustalu, LL.M.: Selected Treaty and EC Tax Law Issues Related to the Direct Taxation in Estonia
- Prof. Dr. Daniel Gutmann: Subsidiaries and Commissionnaires as Permanent Establishments
- Cees Peters: Article 24 MC: Past, Present and Future
- Dr. Martin Köhler: Die Auswirkungen der jüngeren Rechtsprechung des EuGH zur Durchbrechung der Rechtskraft auf das Abgabenverfahren
- Prof. Dr. P.H.J. Essers: Group Interest Rules & Enforcement Covenants: Spectacular Assets to Dutch Tax Competition Policy
- Prof. Dr. Heinz-Jürgen Pezzer: Europarechtliche Fragen im Zusammenhang mit steuerlichen Subventionen
- Prof. Roland Brandsma: Recent Developments Regarding the Treaty Treatment of Cross-border Dividends
- Prof. Dr. Monika Jachmann: Das objektive Nettoprinzip – Basis eines konsensfähigen Steuersystems
- Stijn Vanoppen: Recent Tax Developments in the Financial Services Industry
- Volker Heydt: Progress in Abolishing Double Taxation in the Internal Market
- Christine Weinzierl-Sonnleitner: The Taxable Person Acting as such under EC VAT Law







## Special Courses together with KPMG

In March and May 2009 a special course program on recent developments in tax law was launched, organized jointly by KPMG and the Institute. Each session of this course is prepared by a member of our research team together with practitioners from KPMG. The aim of this course is to exchange ideas between academia and practice for the benefit of all participants whether students, tax experts or researchers.

### Speakers and Topics of the KPMG Seminar in 2008/09

- Sabine Bernegger, Dr. Ferdinand Kleemann, Birgit Stürzlinger: Funktionsverlagerungen bei Vertriebs- und Produktionsgesellschaften
- Christoph Plott, Dr. Katharina Haslinger, Elisabeth Titz: Besteuerung von Beteiligungen

## Semester Opening and Semester Closing

With more than 20,000 students, WU is a very large university. We thus 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 typical Austrian wine tavern ("Heuriger") for a dinner buffet (semester opening). This

year, PwC sponsored these events and thereby gave us the opportunity to present our teaching and research program for the following semester and to get in touch with our students outside the lecture rooms. Moreover, we celebrated the end of the fall term and the spring term together with our students and BDO Auxilia at the Institute in an informal atmosphere (semester closing).

## Excursion to Slovenia

The destination of our excursion in 2009 was Slovenia. The trip took place from 27 to 30 June 2009 and was sponsored by PricewaterhouseCoopers Europe. In addition to the staff of our Institute, our best students were also invited to apply to participate in the excursion. We started our trip with sightseeing in Ptuj, Ljubljana, Postojna, Lipica and Portoroz. In Ljubljana, our group of nearly 50 researchers and students visited the Slovenian Ministry of Finance and the Slovenian Tax Administration and attended a presentation on its organization and on the tax system in Slovenia and the Slovenian policy concerning the negotiation of tax treaties. Moreover, we were welcomed at the Austrian embassy to Slovenia and we heard an interesting lecture by tax practitioners of PricewaterhouseCoopers Slovenia before attending a great dinner as guests of PwC Slovenia. We also had the

chance to listen to a presentation of representatives of Hypo Leasing on the tax issues their company is currently facing. Our visit to Gorenje began with a presentation on the company and a tour of the premises. At the University of Maribor we received interesting information on the tax education in Slovenia and the future of the Slovenian tax system. Following this, Raiffeisen Slovenia was our next stop. We attended a presentation there and in the evening we had an excellent closing dinner.

## Career Perspectives for Students

On 10 December 2008, together with BDO Auxilia, Deloitte, Ernst & Young, Hübner & Hübner, LBG, Leitner & Leitner, PwC and TPA Horwath, our Institute invited students to a panel discussion on the future of the profession "tax adviser". Here the students had the opportunity to talk to experienced practitioners on current and future issues and developments in this topic. More than 100 students attended this event.

Another panel discussion was held on 4 May 2009 to discuss career perspectives for our students in law firms. The discussion was sponsored by CHSH, Freshfields Bruckhaus Deringer, SCWP and Wolf Theiss. These firms also designated the members of the panel.





## LL.M. Program in International Tax Law

Our Institute has been offering an LL.M. program in International Tax Law since 1999. The program enjoys a high reputation worldwide and is a joint activity with the Academy of Public Accountants. In the academic year 2008/09, the full time program started in September 2008 and ended in June 2009. A two-year part-time program had already started in September 2007 and finished in June 2009 as well. For the next full-time and part-time program, both of which started in September 2009, we admitted 27 students in each of the programs, but had almost three times as many excellent candidates. The applicants came from 34 different countries, 45 % from outside Europe. A welcome reception was held on 10 September 2009 for all new students.



### Scholarship

ERSTE Bank and PRESSE provided funds for a scholarship for the full-time program that started in September 2009. Mario Perl was selected in March 2009 and received a check of EUR 11,900.

### International Faculty

The faculty we welcomed in Vienna for our LL.M. program was very international. Among them were some of the most distinguished experts in international tax law.

363 students have graduated from our LL.M. program in International Tax Law since the first courses started in 1999. Most of these have joined the LL.M. International Tax Law Alumni Club and have built up a lasting worldwide network. Ute Surbier-Hahn (Germany) is president of the Alumni Club. The General Assembly took place on 12 January 2009.

### LL.M. International Tax Law Faculty 2008/09:

B. Arnold, Toronto, M. Aujean, Brussels, J.F. Avery Jones, London, R. Avi-Yonah, Michigan, R. Baconnier, Neuilly-Sur-Seine, P. Baker, London, G. Brähler, Eichstätt-Ingolstadt, M. Dahlberg, Uppsala, M. Daly, Geneva, D. Deák, Budapest, C. Djanani, Eichstätt-Ingolstadt, E. Eberhartinger, Vienna, E. Eichenhofer, Jena, T. Edgar, Ontario, M. Eilmansberger, Salzburg, P. Essers, Tilburg, F.A. Garcia Prats, Valencia, C. Gustafson, Chicago, D. Gutmann, Paris, T. Henze, Luxembourg, F. Hellio, Neuilly-Sur-Seine, V. Heydt, Brussels, M. Hofstätter, Vienna, D. Hohenwarter, Vienna, P. Holzer, Vienna, H. Jirousek, Vienna, S. Kalss, Vienna, L. Kana, Santiago de Chile, E. Kemmeren, Tilburg, W. Kessler, Freiburg, G. Kofler, New York, H. Kogels, Rotterdam, R. Krever, Melbourne, M. Lang, Vienna, H. Loukota, Vienna, D. Lüthi, Utzigen, G. Maisto, Milan, J. Malherbe, Leuven, Y. Masui, Tokyo, J.K. McNulty, Berkeley, V. Metzler, Vienna, P.G. Michielse, Utrecht, J.M. Mössner, Osnabrück, M. Nettinga, Heemstede, F. Pennings, Tilburg, A. Pickering, Sydney, H. Pijl, Amsterdam, P. Pistone, Salerno-Vienna, P. Plansky, Vienna, K. van Raad, Leiden, A.J. Rädler, Munich, E. Reimer, Heidelberg, R. Rohatgi, Mumbai, D. Sandler, Ontario, J. Sasseville, Paris, M. Schilcher, Vienna, B. Schima, Luxembourg, C. Schmidt, Nuremberg, W. Schön, Bonn, J. Schuch, Vienna, K. Sieker, Frankfurt, A. Skaar, Oslo, C. Spengel, Mannheim, C. Staringer, Vienna, M. Stefaner, Vienna, J.P. Steines, New York, A. Storck, Zurich, F. Sutter, Vienna, B. Terra, Amsterdam, S. van Thiel, Brussels, O. Thömmes, Munich, D. Tillinghast, New York, G. Toifl, Vienna, R. Waldburger, St. Gallen, P. Weninger, Vienna, F. Zimmer, Oslo

# LL.M. Graduates from all over the world





## Klaus Vogel Lecture

Prof. Klaus Vogel, who died in December 2007, was not only the doyen of International Tax Law, but also supported the LL.M. Program from the beginning. The students greatly appreciated his lectures. In his honor, a Klaus Vogel Lecture was held for the first time on 25 October 2007, in cooperation with PwC Germany. The lecture was delivered by Prof. em. Leif Muten of Stockholm School of Economics and Prof. Jürgen Lüdicke provided comments. The 2008 lecture was delivered on 24 October 2008 by Jacques Sasseville (OECD) on the topic "Tax Treaties and Schrödinger's Cat" and commented on by Prof. Frank Engelen (University of Leiden).

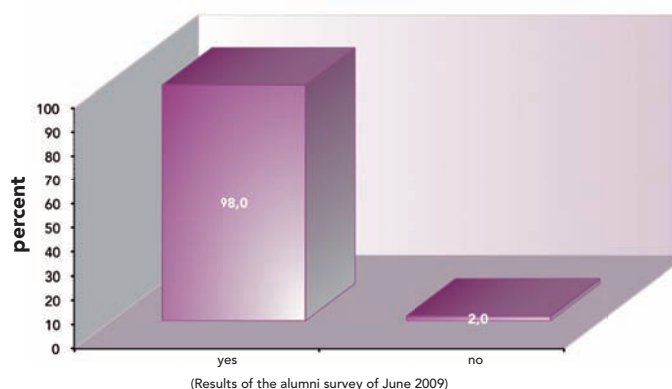
## LL.M. Alumni Reunion

The graduates of the LL.M. Program are in close touch with each other and feel very committed to the program. Many of them attended the Alumni Reunion that was held on 25 October 2008. Jacques Sasseville (OECD) and Michel Aujean (EC) gave presentations about recent EU and OECD developments. The substantive part of the reunion was followed by an excursion to the countryside.

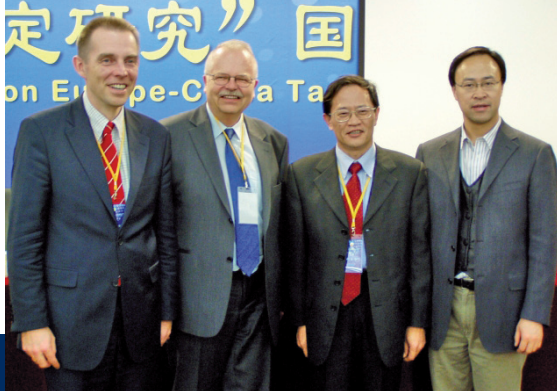
## Siemens Award

Siemens Germany supported the LL.M. Program in International Tax Law by sponsoring the Siemens Award for the best master's theses.

**If I had to choose the electives in my studies again, would I choose the Institute for Austrian and International Tax Law?**







# Research Activities

## Special Research Program "International Tax Coordination"

In October 2003, a Special Research Program "International Tax Coordination" (SFB ITC) was established by the Austrian Science Fund and was provided with funds of EUR 1.7 million. Researchers from tax law, social security law, constitutional law, business administration, public finance, as well as economists and historians, are working together closely on multi-disciplinary projects. The SFB deals with a broad range of issues in tax coordination, such as assignment of taxing rights, international income tax harmonization, etc. In 2007, the Austrian Science Fund, after having conducted an extensive and international evaluation procedure, decided to extend the SFB for the next funding period (until 2010) and provided an additional EUR 1.8 million for research activities.



International Tax  
Coordination SFB

### SFB Research Seminar

- Christian Bellak, Markus Leibrecht, Michael Wild, Claudia Hochgatterer, Adriana Nikolic: *Distribution of Incomes Among Dividends, Retained Earnings, and Taxes*
- Katharina Kubik, Christian Massoner, Martin Zagler: *CCCTB – Mögliche Elemente des Aufteilungsmechanismus*
- Marko Köthenbürger: *Corporate Taxation and Corporate Governance*
- Michael Walpole, Katharina Kubik: *A Comparative Examination of the Australian VAT Reduced Input Tax Credits System for Financial Supplies and VAT Developments in the EU*
- Brigitte Muehlmann, Ines Grangl: *Steuerpatente*
- Jean-Pierre Vidal, Bernhard Canete: *The GlaxoSmithKline Case and its Relevance in Europe*
- Bernhard Canete: *China und das OECD Musterabkommen*
- Ruud de Mooij, Michael Wild: *Tax Distortions in Financial Structure: Should Europe Move Towards ACE or CBIT?*
- Pasquale Pistone, Michael Wild: *Economic Development of Developing Countries and Taxation.*
- Alfons Weichenrieder, Pasquale Pistone: *Thin-Capitalization Rules and Company Responses*
- Isabell Claus, Christian Polster: *Staatsfonds und Besteuerung*

## Conferences

### Procedural Law and Constitutional Law

Together with the Institute for Austrian and European Public Law at the WU, we regularly hold a conference on procedural and constitutional law with a special emphasis on tax issues. This year's conference was held on 21 and 22 November 2008 and dealt with the procedure before the Austrian Constitutional Court in tax matters. Many experts from the WU and other Austrian universities as well as practitioners with scientific background contributed to the conference. A book containing all the papers will be published soon.

### Tax Treaties between China and Europe

The Institute for Austrian and International Tax Law cooperated in a joint research project with Chinese researchers including Prof. Jianwen Liu and other scientific staff members of the Peking University Law School and of Central University of Finance and Economics (CUFE). They analyzed the tax treaties concluded between the People's Republic of China and European countries to identify Chinese tax treaty policy with European countries and the underlying reasons for such



a policy. To what extent Chinese tax treaties follow the OECD Model or the UN Model was analyzed as well as to what extent they contain provisions specific for China. The project results were presented at the International Conference on Europe-China Tax Treaties Research in Beijing (18 to 20 March 2009) and will be published in a book, both in China and Europe.

### **Value Added Tax and Direct Taxation – Similarities and Differences**

From 26 to 28 March 2009, our Institute organized a conference on the topic “Value Added Tax and Direct Taxation - Similarities and Differences”. Almost 140 international tax experts, government representatives, scholars and practitioners identified and discussed similarities and differences in the two different areas of tax law. They compared issues that are similar and evaluated how solutions in one field could be used for the other. For this conference, written contributions were prepared which served as a basis for discussion during the conference and which have been published in a conference book.

### **Tax Law and Accounting**

On 24 and 25 April 2009, the “Wiener Bilanzrechtstage” were held at our university for the ninth time. This is a joint activity of our Institute and the Institutes for Taxation and Accounting and for Commercial Law at our university. 200 practitioners with an interest in academic topics accepted our invitation to attend and heard a number of very interesting lectures on the general topic “Employee Compensation Schemes”.

### **Eighteenth Conference of Austrian Tax Law Institutes**

From 7 to 9 May 2009, we hosted the Eighteenth Conference of Austrian Tax Law Institutes (“18. Österreichischer Steuerrechtstag”). From our Institute, Birgit Stürzlinger and Christian Massoner held a presentation on the topic “Do Credit and Exemption Method Lead to an Equal Result?”.

### **Wolfgang Gassner Memorial Lecture**

On 15 May 2009, the fifth memorial lecture in honor of Prof. Wolfgang Gassner was held. Prof. Frans Vanistendael (University of Leuven) gave a presentation on the future of European tax law. This lecture was followed by a discussion of this topic led by Prof. Pasquale Pistone.

### **Sixteenth Viennese Symposium on International Tax Law**

On 19 June 2009, the Sixteenth Viennese Symposium on International Tax Law was organized by our Institute. In cooperation with colleagues from other universities (Prof. Michael Tumpel, Linz, Dr. Dietmar Aigner, Linz), the research staff of our Institute presented the results of their research on the topic “Withholding Taxes”. The lectures held at the symposium will be published in a book.

### **Procedural Law in the Context of Community Law and Domestic Tax Law**

From 2 to 4 July 2009, our Institute organized a conference on the topic “Procedural Law in the Context of Community Law and Domestic Tax Law”. Tax law experts, scholars and practitioners from more than 20 European countries participated in the conference and illustrated the differences between domestic procedural and constitutional law. Furthermore, the influence of community law on domestic law, tax treaties, customs and rules concerning state aid was discussed. Another issue discussed was the necessity of estab-





lishing a common procedural law within the European Union in reference to the ongoing harmonization, especially in respect to a possible future introduction of a Common Consolidated Corporate Tax Base or an EU Tax. Written contributions prepared for this conference served as a basis for discussion and will be published in a conference book.

## Tax Law Summer Conference

From 5 to 9 July 2009, we organized the "Eighth 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. Among the nearly 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.

## OECD Archives

For researchers in tax treaty law, the minutes and other documents of the OEEC and OECD committees at the time the OECD Model Convention was drafted provide a lot of valuable information about the intention of the drafters. So far, these documents were 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 and the University of Piacenza. Together, we have photocopied, scanned and digitalized these documents and put them on the internet, in order to make them available to researchers all over the globe.

## Research Projects

In the academic year 2008/09, 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, Eurasia Pacific Uninet, and the Association of Austrian Cities and Towns.

- *Comprehensive Legal Analysis of the Austrian Corporate Income Tax Act*
- *The Impact of the CCCTB on Austrian Business Taxation*
- *Empirical Study on the Case Law of the Austrian Administrative Court in Tax Matters*
- *Database of Historical Materials on Double Tax Treaties (in cooperation with the OECD, IBFD, Catholic University of Piacenza, IFA Canada and Canadian Tax Foundation)*
- *Constitutional Analysis of a Redesigned Land Tax*
- *Comprehensive Legal Analysis of Chinese Tax Treaties Concluded with European Countries*



SUMMER CONFERENCE



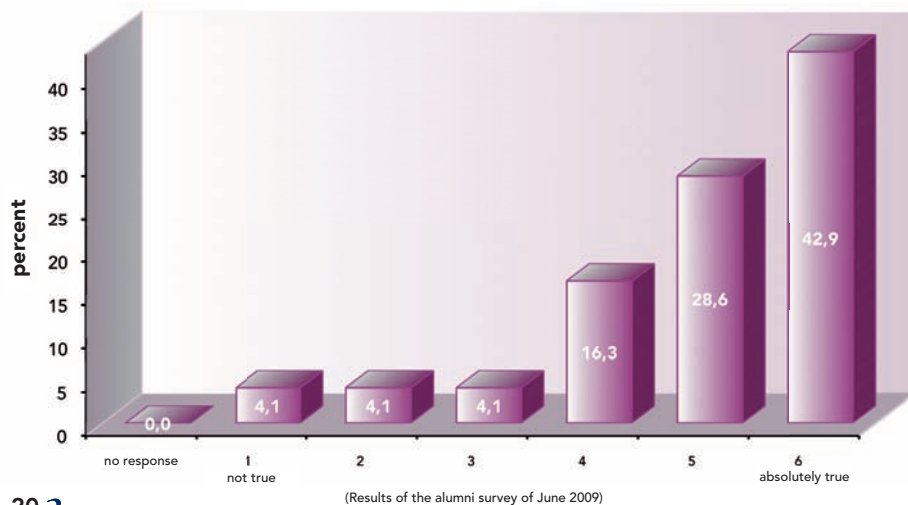


## EURYI Award

In 2005, Prof. Pasquale Pistone (Salerno) won the EURYI Award of the European Science Foundation for carrying out a five-year research project on 'The Impact of European Law on Third Countries in the Field of Direct Taxation' at our Institute. Since then our Institute has become one of the leading centers for research activity on this topic. So far, a book and several articles have been published as part of this project. Since 2008, the

members of this research project are working together with those involved in the interdisciplinary research carried out as one of the main pillars of the Special Research Group on International Tax Coordination. Among others, Prof. Pasquale Pistone is currently working at a project on Tax Conventions for Latin America, which will include the presentation of a Model Tax Convention for Latin American countries in February 2010 at the 25th Conference of the Latin American Institute for Tax Law, to be held in Cartagena (Colombia).

**The presence of guest lecturers improves the Institute's program of lectures and seminars**





## Publications in the Academic Year 2008/09



**Prof. Michael Lang**

1. Die Auswirkungen des gemeinschaftsrechtlichen Beihilfenverbots auf das Steuerrecht, Gutachten zum 17. Österreichischen Juristentag, Manz, Vienna, 2009.
2. Consolidation, Allocation and International Aspects, in Schön/Schreiber/Spengel (eds.) A Common Consolidated Corporate Tax Base for Europe – Eine einheitliche Körperschaftssteuerbemessungsgrundlage für Europa, Springer, Vienna, 2008, 144.
3. Temporal Effects of an ECJ Judgments, in Dourado/Borges (eds.) The Acte Clair in EC Direct Tax Law, IBFD, Amsterdam, 2008, 133.
4. Interpretation of the Term „Beneficial Ownership“ – The Prévost Case – Tax Court of Canada, Compendium on International Taxation, Volume I, Chamber of Tax Consultants, The Chamber of Tax Consultants, 2008, 592.
5. Österreichische Universitäten im internationalen Umfeld, in Schragl (ed.) Kompetenz und Solidarität, Böhlau, Vienna, Cologne, Weimar, 2008, 115.
6. Beteiligungen im Privatvermögen: Die Besteuerung des Wegzugs aus Österreich und Deutschland in die Schweiz with Jürgen Lüdicke and Markus Reich, IStR 2008, part 1: 673, part 2: 790.
7. Europäische Rahmenbedingungen einer österreichischen Steuerreform, politicum 2008, 13.
8. Rechtsprechungsübersicht Verfassungsgerichtshof (with Michael Holoubek), ecolex 2008, 1066.
9. Die Zuständigkeit des Verwaltungsgerichts des Bundes in Steuersachen, in Holoubek/Lang (eds.) Die Schaffung einer Verwaltungsgerichtsbarkeit erster Instanz, Linde, Vienna, 2008, 181.
10. Schweizer Bundesgericht zur DBA-Auslegung, in Brähler/Lösel (eds.) Deutsches und Internationales Steuerrecht, Festschrift für Christiana Djanani, Gabler Edition, Wiesbaden, 2008, 495.
11. Das Steuersystem in 25 Jahren, in Rädler (ed.) Tax Science Fiction, Beck, Nördlingen, 2008, 21.
12. Rechtsprechungsübersicht Verfassungsgerichtshof (with Michael Holoubek), ecolex 2009, 86.
13. Die steuerrechtlichen Abteilungen des Österreichischen Juristen-Tages im Spiegel der Rechtsentwicklung, in Michalek (ed.) Festschrift 50 Jahre Österreichischer Juristentag, Manz, Vienna, 2009, 241.
14. Ruhegehälter nach Art 19 Abs 2 OECD-MA, in Rödler/Spindler/Tipke (eds.) Steuerzentrierte Rechtsberatung, Festschrift für Harald Schaumburg, Otto Schmidt, Cologne, 2009, 879.
15. Rechtsprechungsübersicht Verfassungsgerichtshof (with Michael Holoubek), ecolex 2009, 449.
16. Abgabengesetzgebung durch die Gemeinde, ÖStZ 2009, 273.
17. Die Grenzen steuerlicher Gestaltung in der österreichischen Rechtsprechung (with Christian Massoner), in Lang/Schuch/Staringer (eds.) Die Grenzen der Gestaltungsmöglichkeiten im Internationalen Steuerrecht, Linde, Vienna, 2009, 15.
18. Is There a Need for a European Court of Taxation, in Nykiel (ed.) Taxpayer Protection in Europe, forthcoming.
19. Cadbury Schweppes Line of Case Law from the Member States' Perspective, in de la Feria/Vogenauer (eds.) Prohibition of Abuse of Law, forthcoming.
20. Der Sitz der Rechtswidrigkeit, in Holoubek/Lang (eds.) Das Verfassungsgerichtliche Verfahren in Steuersachen, forthcoming.
21. Möglichkeiten zur Vereinfachung der Doppelbesteuerungsabkommen, in Urnik/Fritz-Schmied/Kanduth-Kristen (eds.) Steuerwissenschaft und betriebliches Rechnungswesen, Linde, Vienna, 2009, 127.
22. Beschlussrechtsabgaben der Gemeinden als regional selektive Beihilfen?, in Jabloner/Lucius/Schramm (eds.) Theorie und Praxis des Wirtschaftsrechts, forthcoming.
23. Conflicts of Qualification and Double Non-Taxation, IBFD Bulletin 2009, 204.





24. Einkommensteuerrecht und Gemeinschaftsrecht – Auswirkungen der EuGH-Rechtsprechung auf das österreichische Steuerrecht, SWK 2009, 679.
25. Die Verdrängung nationalen Rechts durch Gemeinschaftsrecht: In dubio pro fisco?, SWI 2009, 216.
26. Recent Case Law of the ECJ in Direct Taxation: Trends, Tensions and Contradictions, EC Tax Review 2009, 98.
27. Die Auslegung von Doppelbesteuerungsabkommen als Problem der Planungssicherheit bei grenzüberschreitenden Sachverhalten, in Grotherr (ed.) Handbuch der internationalen Steuerplanung, 3<sup>rd</sup> edition, 2009, forthcoming.
28. Verbiendet das Gemeinschaftsrecht die Erhebung von Quellensteuern?, IStR 2009, forthcoming.
29. Treaty Override und Gemeinschaftsrecht, in Lehner (ed.), 2009, forthcoming.



**Prof. Josef Schuch**

1. Austria: Tax Authorities Intensify their focus on transfer pricing (with Andrea Lahodny-Karner), Transfer Pricing Review 2008/09, 20.

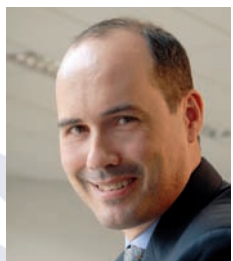
2. Jetzt steuerfrei erben und schenken in Österreich (with Claudia Wehinger), Private, 2008, 60.
3. Ausländische Stiftungen und sonstige Vermögensmassen im österreichischen Abgabenrecht (with Uta Hammer), in Cerha/Haunold/Huemer/Schuch/Wiedermann (eds.) Stiftungsbesteuerung, Linde, Vienna, 2008, 199.
4. Rule Shopping im DBA-Recht und die Grenzen steuerlicher Gestaltung (with Katharina Kubik), in Lang/Schuch/Staringer (eds.) Die Grenzen der Gestaltungsmöglichkeiten im Internationalen Steuerrecht, Linde, Vienna, 2009, 115.
5. Taxation of Workers in Europe: Austria (with Julia Hutter), in Mössner (ed.) Taxation of Workers in Europe, 2009, forthcoming.
6. Die Rechtswirkungen aufhebender Erkenntnisse im verfassungsgerichtlichen Verfahren (with Michael Rohregger), in Lang/Holoubek (eds.) Das Verfassungsgerichtliche Verfahren in Steuersachen, forthcoming.
7. Deferred Compensation, in Bertl et al. (eds.) Mitarbeiterbeteiligungen im Unternehmens- und Steuerrecht, forthcoming.
8. Die Erhebung von Quellensteuern als "Ausgliederung" der Steuererhebung, in Lang/Schuch/Staringer (eds.) Quellensteuern – Der Steuerabzug bei Zahlungen an ausländische Empfänger, forthcoming.



**Prof. Claus Staringer**

1. Austria – The Jobra Case, in Lang/Pistone/Schuch/Staringer (eds.) ECJ – Recent Developments in Direct Taxation 2008, Linde, Vienna, 2009, 9.
2. Die fremdfinanzierte Einlagenrückzahlung bei Kapitalgesellschaften, ÖStZ 2009, 153.
3. Die österreichische Gruppenbesteuerung, JbFStR 2009, 368.
4. Die Verstaatlichung, JbFStR 2009, 344.
5. Treaty Override und DBA Österreich-Deutschland, IStR 2009, forthcoming.
6. Die Gruppenbesteuerung in der Krise, GesRZ 2009, forthcoming.
7. Management-Beteiligung im Steuerrecht, in Bertl/Eberhartinger/Kalss/Lang/Nowotny/Riegler/Schuch/Staringer (eds.) Mitarbeiterbeteiligung und Mitarbeitervergütung, 2009, forthcoming.
8. Die Quellensteuerfreiheit nach der Mutter-Tochter-Richtlinie und der Zinsen-Lizenzgebühren-Richtlinie (with Nicole Tüchler), in Lang/Schuch/Staringer (eds.) Quellensteuern, 2009, forthcoming.





**Prof. Pasquale Pistone**

1. Antonelli V., D'Alessio R., Pistone P. (eds.), *Summa Fiscale*, Ed. Il Sole 24 Ore, 2009.
2. Abuse of Law in the Context of Indirect Taxation: from (before) Emsland-Stärke 1 to Halifax (and beyond), in Vogenauer, S. (ed.), *Prohibition of Abuse of Law: A New General Principle of EU Law?*, Hart Publishers, forthcoming.
3. One single definition of abuse in European tax law: a milestone in building up a single idiom for European tax law, in *Highlights and Insights*, forthcoming.
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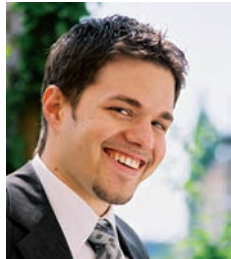
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## Doctoral Studies

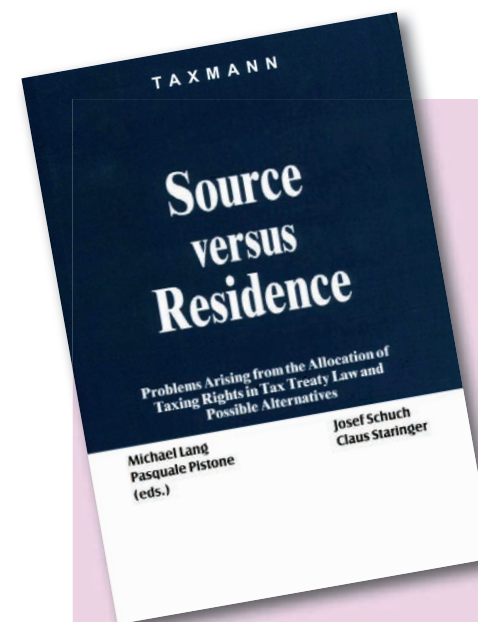
Only a few doctoral candidates are admitted to our Institute every year. It usually takes these candidates two to four years to complete their doctoral theses. In the academic year 2008/09, three doctoral theses were approved at our Institute.

### Recently approved doctoral theses:

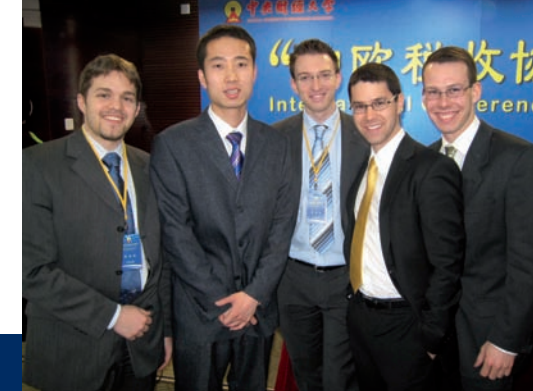
- Daniela Hohenwarter, *Verlustverwertung im Konzern*
- Dr. Gernot Ressler, *Die Unterkapitalisierung im Körperschaftsteuerrecht*
- Dr. Michael Schilcher, *Mitwirkungspflichten des Steuerpflichtigen und ihre Grenzen unter besonderer Berücksichtigung der erhöhten Mitwirkungspflicht bei Auslandssachverhalten*

## Academic Awards

We are very proud that members of our Institute received academic awards in the academic year 2008/09. Dr. Otto Plückhahn, a highly regarded expert in the field of Criminal Tax Law at the Austrian Ministry of Finance, was given the Silver Medal of our University, which is a very selectively granted award, for his achievements in teaching at our Institute. Dr. Gernot Ressler received the "Kastner Award" for his doctoral thesis "Die Unterkapitalisierung im Körperschaftsteuerrecht". Dr. Mario Tenore received the EATLP Award for his doctoral thesis on "Taxation of Cross-Border Dividends in Europe". Thomas Ecker received the "Talenta 2008 Award" for his master's thesis on "Non-Profit Organizations with Multinational Activities – A Corporate and Income Tax Point of View". Marie-Ann Mamut, Karin Simader, Birgit Stürzlinger and Christian Massoner received the „TEI-Award“ (Tax Executive International Award) together with the Research Award of our University for their excellent publications. The "Seminar on Business Tax Law", held by Prof. Claus Staringer and Christian Massoner, was recognized for excellence in teaching. Prof. Claus Staringer was recognized as best Austrian lawyer in the field of tax law in a ranking published by an Austrian business journal.







## Incoming Foreign Researchers

High-level research is only possible if close links to the international scientific community are established. The Institute for Austrian and International Tax Law therefore tries to invite as many excellent foreign researchers as possible to cooperate with us on our research projects. In our regular program we had four visiting professors from abroad in the academic year 2008/09, in our LL.M. program in International Tax Law as many as 38 during the entire academic year. Many of these are also involved in our research projects.

One of our guest researchers was Ruth Mason, Associate Professor at the University of Connecticut, who spent two weeks at our Institute as a Fulbright Senior Specialist. She is an expert in international tax law and also focuses on European tax law. During her stay in Vienna she presented a guest lecture on "US Tax Law". In addition, she presented her paper "Made in America for European tax: the internal consistency test" during one of our round table sessions.

From September to November 2008, Maria Cruz Barreiro from the University of Vigo in Spain visited our Institute for the second time, spending two months in Vienna. She did research for her Ph.D. thesis on European tax law. Also, from September to December 2008, Paolo Stizza, who is a doctoral candidate at the University of Bergamo in Italy, did research for his Ph.D. on "Cross Border Loss Relief within the European Union" at our Institute. In September 2008, Anna Gerson (Doctoral Candidate at Jonköping International Business School) spent some days at our Institute. In addition, Ewa Prejs (Nicolaus Copernicus University, Poland) and Lukasz Adamczyk (former MONDI Research Fellow) did research in Vienna for a short period.

In December 2008, Michael Walpole, Associate Professor at the University of New South Wales, Sydney, visited our Institute. He gave a lecture on "A Comparative Examination of the Australian VAT Reduced Input Tax Credits System for Financial Supplies and VAT Developments in the EU" as part of our Special Research Program.

Natalia Paxinou from Greece worked in Vienna from January until July 2009. She focused on the taxation of interest payments. In the period from March to June 2009 Martin Gesko (University of Bratislava) visited our Institute for research purposes. From June to Septem-

ber 2009, Domingo Jiménez-Valladolid (Universidad Autónoma de Madrid, Spain) did research at our Institute. From 10 June to 5 July 2009, Prof. Yariv Brauner, University of Florida, Levin College of Law, visited our Institute. He is a distinguished scholar in the area of international taxation.

## Ernst Mach Grants

The Austrian Exchange Service (ÖAD) and the Academic Cooperation and Mobility Unit (ACM) on behalf of and financed by the Federal Ministry of Education, Science and Culture (BMBWK) awarded Ernst Mach Grants to graduates from all countries for a research period (one to nine months) in Austria. Since March 2009, the Institute for Austrian and International Tax Law is hosting Ernst Mach Fellows who are doing research in international tax law. They are involved in our conferences and discuss their research projects with us:

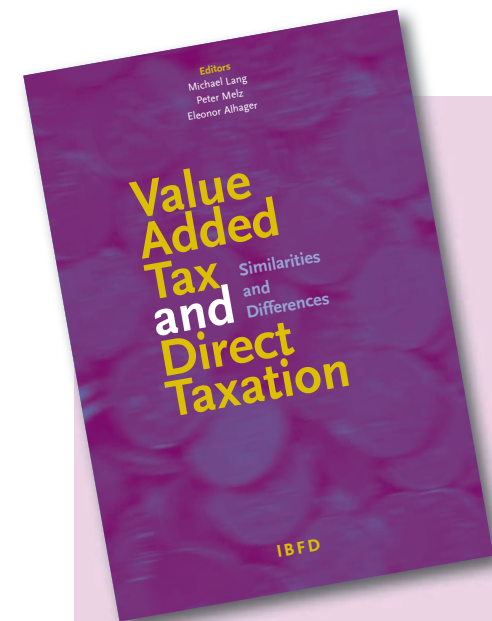




- *Siarhei Yerameyevich, Belarus, „Tax Competition Between Integration Formation of Countries“*
- *Dmitrij Chajkovskij, Belarus, „Customs and Customs Control in the Light of Globalisation and Innovative Development“*
- *Linghui Ren, China, „The Policy and Regulation of Transfer Pricing in China“*
- *Daniel Smit, Netherlands, „Freedom of Investment Between the EU and Non-EU Countries and Company Taxation“*
- *Selcuk Ozgenc, Turkey, „Abuse of Tax Treaties and Turkish Tax Treaty Practice“*
- *Dana Nerudova, Czech Republic, „Possible Methods of the Tax Base Construction for SME“*
- *Marcin Lachowicz, Poland, „Tax Optimization and State Reaction“*
- *Marcel Schaper, Netherlands, „Fiscal Distortions in the Internal Market“*
- *Ralf Imstepf, Switzerland, „EU-Compatibility of Swiss VAT-System“*

## 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 academic efforts in tax law there. TPA Horwath granted a Research Fellowship in International Tax Law for the first time. This Fellowship was awarded to Marta Uss from Poland. Since September 2008 she has been involved in research activities at our Institute. Malgorzata Joanna Sek from Poland is our second MONDI Research Fellow in International Tax Law. She has been working at our Institute since November 2008. In addition, we will continue our cooperation with RAIFFEISEN INTERNATIONAL and are looking for a new candidate from Russia, Ukraine or Poland.





## EATLP Seminar

In February 2009, the EATLP Seminar, a seminar jointly organized by the Universities of Leiden, Uppsala and WU, took place in Vienna. Around thirty participants from all over Europe discussed case studies on tax treaty law. Additionally, a poster session was organized so that the doctoral students could exchange ideas on their research projects. In addition to the core program, the participants were able to socialize at a cocktail reception and an evening at a Viennese Heurigen.

## CEE Vienna International Tax Law Summer School

In July 2009, we organized a CEE Summer School on International Tax Law for the first time, which took place at our Institute. This program comprises a 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. Renowned partners from the business community support the program. Participation in the program is free for the selected students from the CEE-area.

## Outgoing Researchers

Prof. Michael Lang gave presentations at the University of Oxford, Bocconi University (Milan), three lectures at the Universities of Leuven and Tilburg, and at Peking University (Beijing). Moreover, Prof. Michael Lang held speeches at conferences in Neuchatel, Warsaw, Beijing, Munich and chaired panel discussions at the annual congress of the European Association of Tax Law Professors in Santiago de Compostela. At the annual Congress of the International Fiscal Association (IFA) in Vancouver, he chaired a seminar on withholding taxes.

Prof. Josef Schuch gave lectures at the Ph.D. Program at the Center for Doctoral Studies in Business of the University of Mannheim, at the IEDC Bled School of Management and held speeches at conferences in Brussels, Geneva and Madrid.

Prof. Pasquale Pistone gave lectures at the Universities of Bari (Italy), Bologna (Italy), Leiden (Netherlands), Leuven (Belgium), Lisbon (Portugal), Montevideo (Uruguay), Oxford (United Kingdom), Palermo (Italy) and Vigo (Spain). Furthermore, he was speaker at international conferences in Malta, Milan (Italy) and Mumbai (India), general reporter at the 24th Conference of the Latin American

Institute for Tax Law (Isla Margarita, Venezuela), panelist of the Seminar on foreign court rulings on tax treaties, held at the 2008 IFA Conference in Brussels (Belgium). He also reported on peer-reviewing in tax journals at the Conference of the European Association of Tax Professors, held in Santiago de Compostela (Spain).

## Visiting Professor

Prof. Michael Lang was Visiting Professor at the European Tax College of the Universities of Tilburg and Leiden, at the University of San Paulo, USP, Brazil and at Georgetown University Law Center, Washington D.C.

Prof. Pasquale Pistone was Visiting Professor of European Tax Law at the Law School of the University of Florida (United States) and Visiting Professor on Tax Treaties at the UCL Catholic University of Louvain (Belgium).





## Involvement in International Academic Institutions

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

Prof. Michael 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. He is currently chairman of the joint tax committee of the German, Swiss and Austrian chamber of accountants and a Member of the Scientific Committee of the Centre for Research on Business Taxation (CERTI), Bocconi University Milan.

Prof. Josef Schuch is a member of the Academic Committee (AC) of the European Association of Tax Law Professors (EATLP), while Prof. Michael Lang serves as one of the five members of the Executive Board of the EATLP and as chairman of the Academic Committee of the EATLP.

Prof. Michael Lang and Prof. Pasquale Pistone are Members of the CFE (Confédération Fiscale Européenne) Task Force on Direct Taxation.



## Book Series, Tax Journals

In the academic year 2008/09, many books were written or edited by the professors and assistant professors of our Institute, most of which were published by the Linde, LexisNexis, Kluwer, Taxmann and Spiramus publishing houses. Prof. Michael Lang, Prof. Josef Schuch and Prof. Claus Staringer are editors of the "Series on Austrian Tax Law", originally founded by Prof. Gerold Stoll. Prof. Michael Lang is the editor of "Series on International Taxation", presently made up of 57 volumes; he also continued to be the editor of "SWI" (Steuer und Wirtschaft International), a tax journal specializing in international tax law. Prof. Josef Schuch is also one of the editors of *ecolex*, a journal on business law and tax law. Prof. Pasquale Pistone is member of the editorial board of *Intertax* and of the scientific board of *Revista de direito tributario atual* (Brazil) and *Revista de Financas Publicas e Direito Fiscal* (Portugal). Furthermore, Prof. Michael Lang and Prof. Pasquale Pistone are among the members of the scientific board of the Russian Yearbook on International Tax Law, published for the first time in 2009. Prof. Michael Lang and Prof. Pasquale Pistone are members of the board of editors of the *World Tax Journal*; Prof. Michael Lang is also editor-in-chief of the *Bulletin for International Taxation*.





## 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 all our students free of charge – with the support of the Linde publishing house – a guide about content and organizational details of all the courses we offer. Seven years ago, we started to build up a database on our students, in order to give them as much information as possible, and to stay in touch with them after they graduate. In addition, we provide approximately 5,000 people with our electronic newsletter and send them our magazine TAX LAW WU on a quarterly basis, to give them information about our Institute's activities. It is always a 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 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 symposios, to listen to the presentations of our research results and to discuss them with us.

## Tax Lunch Talks

In the academic year of 2008/09, we organized „Tax Lunch Talks“ for the first time. These events aim at encouraging interaction and cooperation between the research staff of the Institute and the LL.M. students. These regular meetings begin with a short lecture by an LL.M. student on recent tax developments in his or her home country. This talk is followed by a small lunch reception, so that the LL.M. students and the researchers have an opportunity to get in touch with one another on a more informal basis. This experiment – combining a professional and a social event at lunch time – was highly appreciated by researchers and LL.M. students alike and we will be continuing it in the future.

### *Speakers and Topics of our Tax Lunch Talks*

1. *Shauna Pittman: Recent Tax Developments in Canada*
2. *Luciana Gambi: Recent Tax Developments in Brazil*
3. *Francesco Avella: Recent Tax Developments in Italy*
4. *Mike Degrandi: Swiss Corporate Tax Update*
5. *Daniel Dinkgraeve: Introduction to the New German Inheritance and Gift Tax*

## Round Tables

In our regularly organized round tables the professors as well as the assistants and our guest researchers have the opportunity to discuss their latest research projects. These discussions serve to facilitate the exchange of knowledge and experience among our research staff.



# Disseminating Our Knowledge

## Seminars for Practitioners

### Henkel Global Tax Campus

In March and September 2009, the Henkel Global Tax Campus took place at the IEDC Bled School of Management (Slovenia) and at our Institute. The Henkel Global Tax Campus was a training and education program for about 90 tax experts from the Henkel group. The Institute for Austrian and International Tax Law was chosen to provide the scientific and academic input. Participants came from 13 (mainly CEE) countries. They were taught and trained in the field of international and European tax. Special emphasis was put on recent developments in these fields of law.

### Tax Treaty Courses

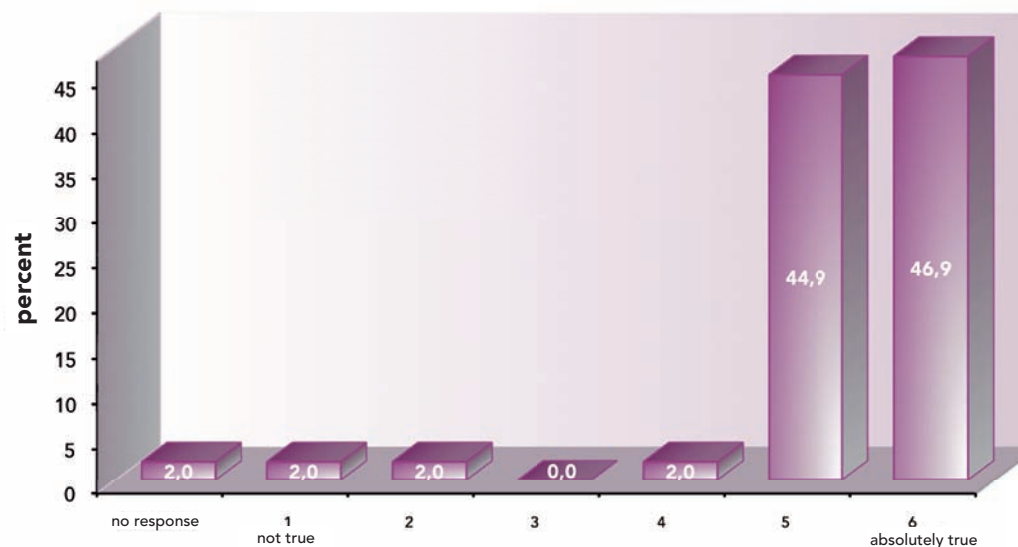
We held seminars on tax treaty law for the Academy of Public Accountants (January 2009 and July 2009) and the member firms of the Horwath International group (October 2008 and April 2009). We shared our knowledge and experience with them during courses lasting from three to six days, making use of the specialization of our research staff in international tax law. 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. Moreover, Prof. Pasquale Pistone held a course on tax treaty interpretation in Mumbai. In cooperation with academics in the CEE countries we organized tax courses for the participants of the Erste School of Banking and Finance.

## ECJ Updates

Many researchers at our Institute specialize in ECJ case law. Four times a year, we offer an "update seminar" on ECJ case law in direct taxation and discuss recent ECJ judgments with practitioners.

### Quality of teaching in the regular program



(Results of the alumni survey of June 2009)





## Seminars in Cyprus

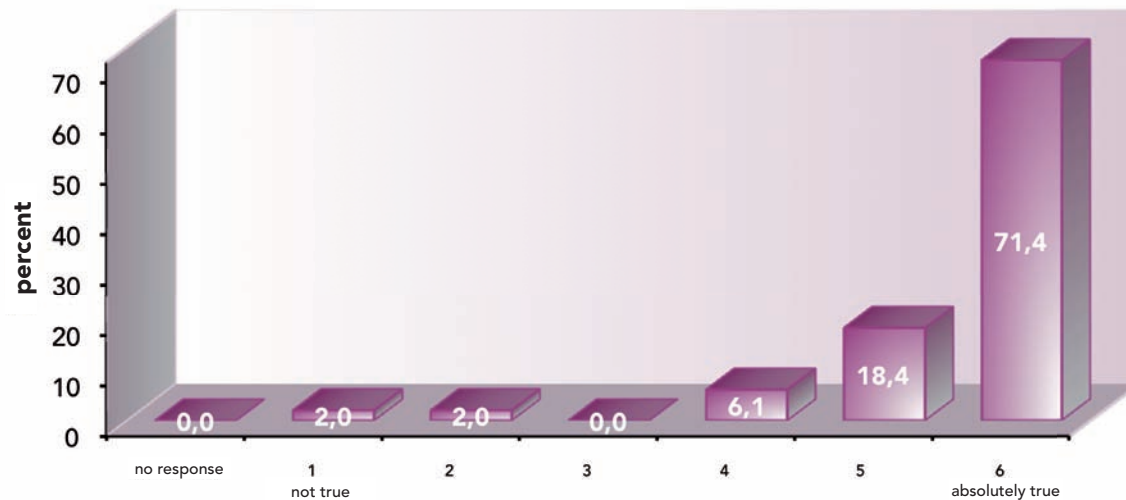
Prof. Josef Schuch led a delegation of our Institute to Cyprus from 9 to 10 October 2008, where they lectured on „Recent Developments in European and International Tax Law“. During the past years our Institute, led by Prof. Wolfgang Gassner, was very deeply

involved in the Cypriot tax reforms and assisted Cyprus in preparing for accession to the European Union. As a result, our Institute is often approached to give lectures on recent developments in European and international tax law in Cyprus and it will do so again in October 2009.

## Tax Law Summer Conference

The Eighth International Tax Law Summer Conference, held by our Institute in Rust (Burgenland) from 5 to 9 July 2009, was also an opportunity to convey the knowledge and experience of the members of the research team of our Institute to practitioners from all parts of the world.

## Satisfaction with the quality of services provided by academic and non-academic staff of the Institute for Austrian and International Tax Law



(Results of the alumni survey of June 2009)

## Helping Practitioners Search for Literature and Case Law

Our Institute houses the Research and Documentation Center for Tax Law. Many firms are members and make use of the support of the center’s research staff, which is made up 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 for further improvement of the quality of our library.

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- Europäisches Steuerrecht

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