



## XIAMEN UNIVERSITY TAX SUMMER SCHOOL SPECIAL ISSUES ON TAX TREATY LAW (17/07 – 22/07/2023)

### **SPEAKERS:**

Marcelo Moura, Research and Teaching Associate at the Transfer Pricing Center at the Institute for Austrian and International Tax Law at WU.

Oleksandr Nesterov, Research and Teaching Associate at the Tax Law Technology Center at the Institute for Austrian and International Tax Law at WU.

Ruth Mirembe, Research and Teaching Associate at the Institute for Austrian and International Tax Law at WU.

Siddhesh Rao, Research and Teaching Associate at the Institute for Austrian and International Tax Law at WU.

ZHANG Zhiyong (张志勇), President of China International Taxation Research Institute.

Martin Ng (吴智广), Managing partner of WTS China.

ZHAO Deming (赵德铭), Partner, Global Law Office in China.

LIAO Yixin (廖益新), Professor and director of the Center for International Tax law and Comparative Taxation, Xiamen University School of Law.

ZHU Yansheng (朱炎生), Professor and vice director of the Center for International Tax law and Comparative Taxation, Xiamen University School of Law.

**PROGRAM:**

**Monday 17/07/2023**

08:20-9:00 OPENING CEREMONY

9:00-11:00 OPENING Lecture by ZHANG Zhiyong (张志勇)

Recent Development of China's Bilateral Tax Relations

11:00-12:30 INTRODUCTION TO TAX TREATY LAW, SCOPE OF TAX TREATIES (*Siddhesh Rao*)

Structure of double tax treaties: definitions, distributive rules and methods for elimination of double taxation, interaction of domestic law and treaty law, OECD and UN Model Convention; Taxes covered, persons covered, deemed residence, center of vital interests, place of effective management

14:00-15:30 INTERPRETATION OF TAX TREATIES (*Marcelo Moura*)

Concept of interpretation, interpretation of international treaties, interpretation of tax treaties, role of OECD/UN Model Convention and their Commentaries, DTTs in relation to domestic law

16:00–17:30 Session delivered by Martin Ng (吴智广)

WTS case studies in international taxation

**Tuesday 18/07/2019**

09:00-10:30 ABUSE OF TAX TREATIES – WHERE ARE THE LIMITS? (*Oleksandr Nesterov*)

Abuse in treaty law, treaty shopping, anti-abuse rules in tax treaties and under domestic law, limitation-on-benefits clause, and principal-purpose test (BEPS Action 6)

11:00-12:30 ABUSE IN INTERNATIONAL TAX LAW – BEPS (*Ruth Mirembe*)

Aggressive tax planning structures through examples, Overview and status of the OECD BEPS project

14:00-15:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – BASIC PRINCIPLES (*Oleksandr Nesterov*)

Distributive rules relevant for companies: Arts. 7, 8 and former Art. 14 OECD Model Convention, definition of PE (Art. 5 OECD Model Convention/UN Model), physical PE, construction PE, agency PE and service PE, allocation of profits between head office and PE (Art. 7 para. 2 OECD Model Convention), dealings between head office and PE, AOA (Authorized OECD Approach)

16:00–17:30 BUSINESS PROFITS AND PERMANENT ESTABLISHMENTS – RECENT DEVELOPMENTS (*Ruth Mirembe*)

Preventing the artificial avoidance of PE status (BEPS Action 7), *commissionaire* arrangements, and exceptions in Art. 5(4), developments in the UN Model

19:00–21:00 Lecture delivered by Prof. Liao Yixin (廖益新)

Reform on International Tax Dispute Resolution Mechanism Under the Background of “One Belt and One Road”

**Wednesday 19/07/2023**

09:00–10:30 TRANSFER PRICING 1 (*Marcelo Moura*)

Associated companies (Art. 9 OECD Model Convention), OECD Transfer Pricing Guidelines, transfer pricing methods through examples, adjustments to intercompany pricing, secondary adjustments, documentation requirements

11:00–12:30 TRANSFER PRICING 2 (*Marcelo Moura*)

Case study of transfer pricing issues

14:00-15:30 PASSIVE INCOME (*Marcelo Moura*)

Definition of “dividends”, “interest” and “royalties”, allocation of taxing rights, withholding taxes, beneficial ownership, PE proviso and relation to Art. 7

16:00-17:30 Lecture delivered by ZHAO Deming (赵德铭)

Customs Valuation of Import Transfer Pricing and Royalties: Theory and Practice

**Thursday 20/07/2023**

09:00–10:30 IMMOVABLE PROPERTY AND CAPITAL GAINS (*Siddhesh Rao*)

Art. 6: Definition of “immovable property”, allocation of taxing rights, relation to other allocation rules; Art. 13: Definition of “alienation”, alienation of immovable property, movable property, shares and other property, relation to other allocation rules; recent case law

11:00-12:30 METHODS TO AVOID DOUBLE TAXATION (*Oleksandr Nesterov & Siddhesh Rao*)

Exemption method, exemption with progression, credit method, ordinary credit, tax sparing credit

14:00-15:30 QUALIFICATION AND ALLOCATION CONFLICTS (*Oleksandr Nesterov*)

Qualification and allocation conflicts, Partnership Report, proposed rule in Art. 1(2) (BEPS Action 2)

16:00–17:30 TAXATION OF EMPLOYMENT INCOME (*Ruth Mirembe*)

Distributive rule for income from dependent work, term of “salaries, wages and other similar remuneration”, term of “employer”, frontier workers, 183-days-rule, distributive rule for pensions, public service pensions, distributive rule for artists and sportsmen

19:00-21:00 Lecture delivered by ZHU Yansheng (朱炎生)

The Digitalised Economy and the Development of Two-Pillar Solution

**Friday 21/07/2023**

09:00-10:30 NON-DISCRIMINATION (*Siddhesh Rao*)

Non-discrimination clauses in tax treaties (Art. 24 OECD Model Convention), case law on the non-discrimination clause

Art 26 OECD Model Convention: exchange of information on request, spontaneous exchange of information, automatic exchange of information, Model Agreement on Exchange of Information on Tax Matters (TIEA), Multilateral Convention on Mutual Administrative Assistance in Tax Matters, Agreement on the Global Standard of Automatic Information Exchange, EU developments

11:00-12:30 EXCHANGE OF INFORMATION (*Siddhesh Rao*)

Art 26 OECD Model Convention: exchange of information on request, spontaneous exchange of information, automatic exchange of information, Model Agreement on Exchange of Information on Tax Matters (TIEA), Multilateral Convention on Mutual Administrative Assistance in Tax Matters, Agreement on the Global Standard of Automatic Information Exchange, EU developments

14:00–15:30 DISPUTE PREVENTION AND RESOLUTION (*Ruth Mirembe*)

Current developments: ICAP, ETACA, simultaneous audit, joint audit

Mutual agreement procedure (MAP), arbitration, Pillar One proposed framework

16:00-17:30 EXAM PREPARATION (*Marcelo Moura, Oleksandr Nesterov, Ruth Mirembe, Siddhesh Rao*)

Examples for exam; How to solve cases in a systematic way

**Saturday 22/07/2023**

09:00-10:30 EXAM

(Supervision: *Marcelo Moura, Oleksandr Nesterov, Ruth Mirembe, Siddhesh Rao*)

11:00-12:30 Discussion of exam questions

(Explanation of cases: *Marcelo Moura, Oleksandr Nesterov, Ruth Mirembe, Siddhesh Rao*)

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