Vienna LL.M. News

Miranda Stewart


Giorgia Maffini (via Zoom)


Alumni with their master's theses in a book

KLAUS VOGEL LECTURE – HOW INTERNATIONAL TAX LAW SHAPES STATES AND CORPORATIONS

Miranda Stewart, Professor of Tax Law and Director of the International Tax Program at the New York University School of Law, delivered the 2025 Klaus Vogel Lecture on the topic "Skirmishes in the Tax Borderlands: How International Tax Law Shapes States and Corporations". Stewart's starting point was Vogel's 1988 essay "The Justification for Taxation: A Forgotten Question" in which he elaborates on the justification within the triangular relationship among the state, society, and the economy – what Stewart refers to as business. She notes that businesses have grown larger and more diverse, limiting state power and assuming state-like features without comparable accountability. Vogel advocates for tax equilibrium between the state and business for society's benefit, and Stewart questions if such a balance can endure in the global digital era.

Stewart subsequently turns to the international tax law framework, highlighting that a state's tax boundary does not necessarily align with its national one. Drawing on theories of the firm, she explains that business boundaries are influenced by internal resources and production which determine competitive advantage and performance. She observes that, by accessing multiple tax jurisdictions and strategically allocating assets, businesses effectively create their own form of international tax law. She further notes that tax planning, which entails its own costs and risks, shapes these boundaries.

Stewart uses digitalization to show how large companies are regaining control over the state while simultaneously purchasing many services powered by artificial intelligence (AI) instead of owning the resources to provide those themselves thereby reducing tax costs. Furthermore, such enormous monopolies often contradict with Vogel's advocacy for equilibrium and, according to the economist Harberger, those taxes are ultimately borne by consumers and workers.

Comments

Dr. Giorgia Maffini, director at PwC UK, endorses Stewart's expansion of Vogel's article that integrates the dimensions of digitalization and globalization while attempting to prevent further complexity. She notes that the global minimum tax requires careful consideration of countries' diverse solutions, specifically the smaller ones that are at risk of disadvantages.

Discussion

A panel discussion featuring Dr. Arne Schnitger, a partner at PwC Germany, Prof. Stewart, and Dr. Maffini focused on an antagonistic equilibrium between the state and the economy in light of Pillar II and AI.

Julian Andreas Hager and Dilara Inal
Teaching and Research Associates
Institute for Austrian and International Tax Law WU

The next Klaus Vogel Lecture is scheduled for October 2, 2026. Please save the date.

In Class

TAX LUNCH TALKS – A SERIES TO BE CONTINUED

A series of Tax Lunch Talks were held in the previous months bringing together LL.M. students and researchers of the Institute for Austrian and International Tax Law. Among others, they covered recent tax and tax policy developments in the EU and India.

BALANCING FAIRNESS AND COMPETITIVENESS IN EU TAX POLICY*

Can the European Union pursue both tax fairness and tax competitiveness simultaneously? European tax policy is at a critical juncture. Member States require more revenue while international developments – including recent U.S. shifts toward tariff-driven industrial policy – force the EU to reconsider its position in global tax competition. Emphasis on traditional fairness increasingly collides with competitiveness demands. Competitiveness has two dimensions: economic competitiveness requires improving business conditions through integration, while state competitiveness demands capacity to secure revenues and respond flexibly to other countries' policies. EU law explicitly supports economic competitiveness but does not genuinely do so for state competitiveness, and recent legislation demonstrates these colliding principles. The GloBE Directive (Pillar Two) embodies fairness – ensuring multinationals pay an adequate amount of tax and preventing races to the bottom. Yet, it creates competitiveness problems: substantial administrative burdens, competitive disadvantages given US nonparticipation, and legal uncertainties. The FASTER Directive offers a different approach. By digitizing residence certificates and streamlining withholding tax relief, it removes investment barriers while strengthening fraud prevention.

FASTER shows that competitiveness and fairness need not be in opposition to each other – well-designed measures can advance both. Proposed measures like BEFIT and HOT promise internal market benefits but may constrain state flexibility. Decluttering initiatives aim to reduce burdens but must avoid undermining fraud prevention. The central tension persists: fairness-driven initiatives like Pillar Two can harm competitiveness when global coordination fails. Yet, abandoning fairness risks new distortions and eroding trust. The question becomes not whether to choose but how to design measures serving both goals. Resolution requires an honest assessment of trade-offs and careful design plus end-to-end understanding of the real-world context. The solution lies in dialogue between states, institutions, and people – creating innovative approaches that acknowledge both principles as legitimate and complementary in the European Union´s globalized reality.

Maria Geise, Germany, Full-time 2025/26

*A presentation based on Roland Ismer, 'Paradigmenwechsel im europäischen Steuerrecht: Wettbewerbsfähigkeit statt Fairness als Leitbild' (2025) IStR 569. [The title translates as: "Paradigm shift in European tax law: competitiveness rather than fairness as the guiding principle"].

THE INTERACTION OF BO, LOB, & GAAR: THE CASE OF TIGER GLOBAL – FLIPKART

For over two decades, the India-Mauritius DTAA has been a subject of dispute before various Indian courts, especially because of the favourable tax treatment accorded to investments made in India through Mauritius before April 01, 2017. The Indian tax authorities have repeatedly questioned the legitimacy of such investments, and the recent case of Tiger Global International III Holdings vs. The Authority for Advanced Rulings is no exception. The judgment given by the Delhi High Court clarified fundamental principles of various concepts such as Beneficial Ownership (BO), Limitation of Benefits (LOB), and General Anti-Abuse Rules (GAAR) with respect to a transaction involving the indirect sale of shares of an Indian company. The case dealt with abstract assumptions of treaty shopping thereby emphasizing the pertinence of upholding state obligations flowing from a DTAA in a globalized economy. The revenue's case rested heavily on characterizing a US affiliate as the actual controller based on selective factual materials and thus being the de facto BO of the gains of an investment pooling entity resident of Mauritius that had sought to avail itself of the benefits of the India-Mauritius DTAA. The court analyzed documentary evidence, contractual arrangements, and the economic reality of the fund structures to reach the conclusion that the Mauritian entities were the BOs of the income received.

The fact that they held a valid tax residency certificate (TRC) and the presumption in Indian tax law of it being valid proof of being the BO seriously weakened the revenue's arguments of there being a sham transaction. With respect to the LOB clause in the DTAA, the court held it to be inapplicable to pre-2017 investments as the DTAA's anti-abuse measures cannot retroactively override explicit grandfathering protection. Regarding the domestic GAAR provisions, the court clarified that domestic anti-abuse rules cannot supersede those embedded in the DTAA. This is especially valid in the case of the India-Mauritius DTAA as it was amended after the GAAR provisions were introduced in India's domestic tax law. If the treaty partners wanted to include its application in the DTAA, it would have been amended accordingly. Although the case is now pending before the Supreme Court of India, the judgment is widely seen as a major reaffirmation of treaty certainty and the evidentiary burden on the revenue in alleging treaty abuse.

Drishti Goel, Full-time 2025/26
Arjun Naik, Part-time 2025/27
Both India

Alumni

A PIECE OF MUSIC

Having left Tokyo for a second European life, this time in Paris, I often recall my days in Vienna because my experience at WU is directly relevant to my current professional path. My duties and experience at WU were relevant in my work both in Japan and at the OECD Secretariat. At the National Tax Agency, I led the process of making the implementing arrangements for tax treaty arbitration and internal rules for its operation. These tasks required a deep understanding of related matters including treaty arbitration, mutual agreement procedures (MAPs), and dispute resolution mechanisms in other economic treaties critical to quality deliverables. At the Ministry of Foreign Affairs, I was responsible for negotiating tax treaties. These duties required me to refine my expertise in tax law and international law as well as ability seeking conclusions that were a factor in future circumstances amidst clashes of interest with foreign authorities. Currently, at the OECD Secretariat, I manage peer reviews concerning MAPs across member jurisdictions. We promote efforts of various countries through the peer review process, aiming for effective and timely resolution of MAP cases.

The situations of respective countries are diverse, thus, I realize daily that the ability to understand the assessed jurisdiction's perspective and convey one's opinion is essential regardless of where or with whom I am working. How have my WU experiences been leveraged in these roles? First is the diversity of the curriculum. At WU, I had the opportunity to study the tax laws of various countries and related treaties broadly and deeply through lectures given by professors from different countries. Assignments were always challenging, but this experience has enabled me to consistently perform multifaceted analyses and has contributed significantly to my duties. Specifically in arbitration-related work, the experience of writing a master thesis regarding arbitration and reading classmates' theses were contributory. Next, I emphasize diversity of the classroom. Whether in the field of treaty negotiations or during the drafting process of a peer review report, I am constantly reminded of my classmates who came from over 20 countries. Having engaged in discussions within a class of diverse backgrounds, specializations, and personalities consistently assists me.

Reflecting on our days at WU, we were like an orchestra. A year of intense effort condensed into a concentrated period brought together people from different nations in Vienna, the City of Music. I look forward to the day when we will once again gather somewhere to play a unified "piece of music".

Atsushi Onishi, Japan, Full-time 2017/18

THE LL.M. GLOBAL FAMILY

Shipra Padhi (India) and Kristof Boel (Belgium) celebrated their wedding on 14 August in a warm and joyful ceremony blessed by a radiantly sunny day. The couple met during the 2021/22 full-time programme where their shared experience brought them together. It was a wonderful and heartfelt celebration. Congratulations and best wishes!

Alumni

FURTHER BOOKS PUBLISHED

The postgraduate LL.M. program in International Tax Law at WU has an excellent reputation not only because of its outstanding curriculum and excellent faculty but also because of its exceptional students. Each year, the master's theses are composed on a topic that is both timely and general, and the outcomes are published in a book. This practice has become a custom.

MASTER THESES PART-TIME 2023/25 – ABUSE RULES IN INTERNATIONAL TAX LAW AND THEIR INTERACTIONS

The efforts to counter tax avoidance and tax abuse have increased significantly in recent years. The OECD's project on Base Erosion and Profit Shifting (BEPS) particularly led to the addition of anti-abuse provisions to numerous domestic tax systems and double taxation agreements. Alongside very broad and generally phrased rules (general anti-abuse rules (GAARs)), there are more targeted provisions (specific anti-abuse rules (SAARs)) with the aim of identifying and preventing abusive tax behaviour on the basis of objective criteria. In addition, countries and international organizations are increasingly relying on non-legally binding instruments. These developments have thus led to a patchwork of provisions in domestic and international law whose interaction with each other is very intricate and remains under-researched. Many of these rules also pose complex challenges in relation to EU law and corresponding case law of the Court of Justice of the EU. With the Anti-Tax Avoidance Directive, the EU has established a legal basis that has obligated Member States to incorporate numerous (general and specific) anti-abuse provisions into their domestic tax legislation that were, in part, formerly unknown to their legal systems.This volume is dedicated to contributing to the academic analysis of all of these issues. It aims to provide a comprehensive academic analysis of the intricate interactions between various anti-abuse rules in international tax law. It is hoped that the insights and findings presented in this book will contribute to a more comprehensive understanding of the complexities involved and inform future developments in this field.

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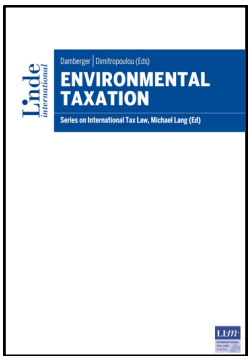
MASTER THESES FULL-TIME 2024/25 – ENVIRONMENTAL TAXATION

During the past years, the relevance of environmental taxes and carbon taxes as policy tools to attempt to effectively address climate change has gained importance across the world. The shift towards climate-resilient economies has placed environmental taxation at the center of both national and international climate policy considerations. Part I lays the theoretical and conceptual groundwork of environmental taxation. Part II is devoted to specific case studies and legislative proposals of environmental taxes. Parts III and IV focus on carbon taxes and carbon pricing instruments. The final part of the book is dedicated to environmental tax incentives as an alternative tool to incentivize environmentally friendly investments. The historical development of such incentives is reviewed with specific focus on their role in technological transitions. This volume seeks to offer a comprehensive examination of the legal, economic, and administrative foundations of environmental taxes, carbon taxes, and environmental tax incentive schemes. It will be beneficial to all readers who are interested in environmental taxes.



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