

# Vienna LL.M. News



Prof. David H. Rosenbloom



Prof. Gerhard Kraft



Panel discussion

## KLAUS VOGEL LECTURE

### Klaus Vogel Lecture 2016 – David H. Rosenbloom on “O Brave New World: The Looming Rethink of International Taxation in the United States”

David H. Rosenbloom delivered the Klaus Vogel Lecture 2016 and analyzed the current taxing system in the United States and its future developments. Prof. Rosenbloom pointed out that taxation and democracy are linked: to the extent the tax system is in trouble, trouble for democracy itself cannot be far behind. After describing the more than 100 years old tax policy of the United States, he put forward several guiding principles and proposals to reform the current system: the connections that exist within the tax system must be understood; the purpose of the tax system must be borne in mind; the adoption of a consumption tax, as a supplement to the income tax, should be considered; an increase of the level of taxation of income produced by the US investments of foreign persons should be considered; the simplification of transfer pricing rules should be pursued; the replacement of the foreign tax credit system with an exemption method system – with the caveat that there should be no exemption and instead only a limited foreign tax credit for certain passive income and income earned in foreign tax havens and other low-tax jurisdictions – should be considered; and the non-discrimination article in tax treaties should probably be reconsidered or removed. Finally he stressed that serious attention must be given to the tax administration and its funding needs, as the Revenue Service is “the backbone of the country”.

The comments on the Klaus Vogel Lecture were delivered by Prof. Dr. Gerhard Kraft (Martin-Luther-University Halle). He sought to complement the work of Prof. Rosenbloom by bringing in the German perspective and by putting forward

a few additional principles to consider. He referred to these principles as “imperatives” and emphasized, in particular, the imperative for convergence and common interpretation. He then offered some examples to demonstrate the importance of these imperatives. To begin, he predicts that tax treaties will play a more important role in the post-BEPS world, which reinforces the need for common interpretation. CFC rules offer another example of the need for convergence in international tax rules. Under the CFC rules in Germany, it is possible that even Germany or the US could be considered low tax jurisdictions for the purposes of those rules, an outcome which he described as “outlandish”. As CFC rules feature among the proposals to combat BEPS, it is an opportune time to improve these rules and ensure greater convergence among them. Also, he agreed with Prof. Rosenbloom’s critique of transfer pricing and suggested that tax law should learn from other domains in this respect: in financial reporting and in accounting, entities under common control are treated as consolidated and tax law could converge more with these other domains. Finally, Prof. Kraft added another “imperative”: the necessity to prevent treaty override. Treaty override is problematic as it reduces legal certainty and possibly moves away from convergence.

The next Klaus Vogel Lecture – again sponsored by PwC Germany – is scheduled on October 27, 2017. Please save the date!

The presentations were followed by a panel discussion, bringing together Prof. Rosenbloom and Prof. Kraft with Prof. Dr. Dr. h.c. Michael Lang and Prof. Dr. Jürgen Lüdiche, to further consider these thought-provoking proposals and ideas about the future of international tax reform.

# IFA Congress Madrid



The panelists

## THE UNITED NATIONS: THE VOICE OF DEVELOPING AND EMERGING ECONOMIES IN SETTING INTERNATIONAL TAX RULES

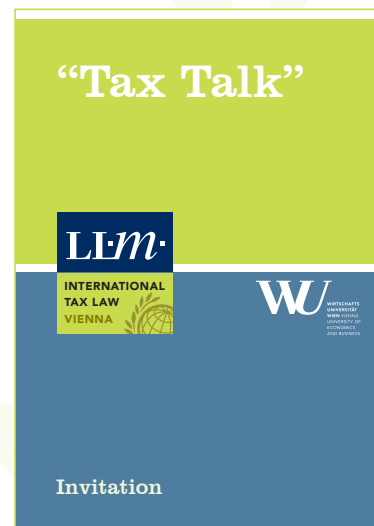
On September 27, during the IFA Congress in Madrid, the Institute for Austrian and International Tax Law hosted a Tax Talk entitled “The United Nations: the Voice of Developing and Emerging Economies in Setting International Tax Rules”. Following previous years’ successful seminars also held at the annual IFA Congress, the Tax Talk brought together some of the key players in the UN tax work: Armando Lara Yaffar (Chair of the UN Tax Committee and Chairman of the OECD Working Party No. 10 on Exchange of Information and Tax Compliance, Mexico), Andrew Dawson (Chair of the OECD Working Party No. 1 on Tax Conventions and Related Questions and Member of the UN Tax Committee, United Kingdom) and Stig Sollund (Chair of the UN Subcommittee on Article 9 (Associated Enterprises), Norway), who together with Jeffrey Owens (Director of the WU Global Tax Policy Center at the Institute for Austrian and International Tax Law, WU) and Alexander Rust (Professor at the Institute for Austrian and International Tax Law, WU) discussed the relevance of the UN Tax Committee and the UN Model.

During the discussion the panelists highlighted that the UN Tax Committee aims at strengthening the role of developing countries and emerging economies in setting the international tax agenda. However, at the 2015 Financing for Development Conference in Addis Ababa, a possible upgrade of the UN Tax Committee from a subsidiary body of the Economic and Social Council to an Intergovernmental Committee of Experts on International Cooperation in Tax Matters was rejected. Instead, the UN Tax Committee was given slightly more resources, which enables it to meet twice instead of once a year.

Moreover, the panelists explained that the next update of the UN Model, a valuable tool for the negotiation of double tax treaties between developed and developing countries, is planned for 2017. The 2017 update will not only revise the existing provisions of the UN Model, but will most probably also include a separate article and commentary dealing with the taxation of technical services.

Many alumni of the LL.M. Program in International Tax Law and international tax experts participated in the Tax Talk. Immediately after the seminar, they had the opportunity to meet and to exchange views with the panelists at the LL.M. reception.

Nathalie Bravo (Venezuela, Full-time 2011/12)





# In class / Alumni

## LOOKING BEHIND THE SCENES

On March 16, 2016 the 2015/17 part-time and the 2015/16 full-time group traveled to Brussels for 3 days for the annual



Excursion to Brussels

## NOT EASY BUT REALLY WORTH

After some years working with Brazilian taxation, I felt that it was the time for a new challenge, a time to change. Therefore, by the end of 2013, after some research and discussing the topic with some colleagues from Brazil, I decided to apply for the LL.M. in Vienna. Fortunately I was accepted. Even though I was quite sure of my decision, at that point, it sounded a little bit crazy to cross the Atlantic, leaving behind my country, my family and friends; selling my car and my furniture; quitting my job and spending my savings. Now I can say: I did not regret this decision for even a second. The organization of the program is impeccable. The lectures are incredibly up-to-date and the professors are the truly authorities in international taxation. Apart from the excellence of the LL.M program, it is priceless to experience living in the magnificent Vienna and to get to know colleagues from all over the world. The cultural and the personal gains are immeasurable. After completing the LL.M. (not such an easy and simple task, I must admit) I was hired by a German multinational company from the sector of wind energy, and I just returned to Brazil after a six-months period working in the headquarters in Aurich, a small town in northwest Germany. In my daily work, I now deal with the taxation of this German

LL.M. excursion. Every year, this offers the LL.M. students the opportunity to meet lobbyists from Siemens, to hear about many interesting tax-related topics from the European Commission at their headquarters and, on the last day, to meet with PwC, our sponsors of the LL.M. program. It was certainly a great opportunity to look behind the scenes and get some inside knowledge about how tax policy is being made and how tax lobbying fits into this process. We had a great time together in Brussels, but were completely shocked when only a few days later a terrorist attack near the European Commission and the airport hit closer to home than expected.

Anja Liske (Germany, Part-time 2015/17)

company's activities in Latin America and the impacts of cross border transactions – sometimes it really makes me feel that I am in one of the lecture discussions. Summing up my testimonial I can say: It is really worth it.

Rodolfo Zanutto Velasques (Brazil, Full-time 2014/15)

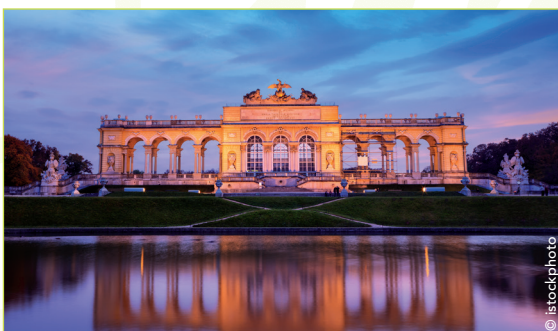


Rodolfo and his classmates



After the Klaus Vogel Lecture 2015

According to Mercer's 18th annual Quality of Living survey, Vienna continues its reign in the top spot for overall quality of living. Have a look – it's true!  
<https://www.imercer.com/content/mobility/quality-of-living-city-rankings.html>



# Alumni / Miscellaneous



## GRADUATION 2016

We are proud of the full-time 2015/16 group, composed of 25 students from all around the world, who have successfully completed the Vienna LL.M. Program. We are very confident that they will continue to achieve more successes in life. Good luck and congratulations!

25 happy graduates

## MASTER THESES 2015/2016 – PREVENTING TREATY ABUSE

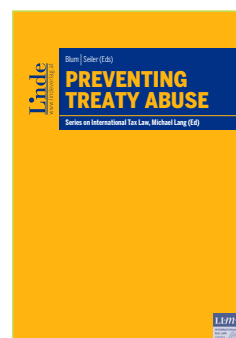
The OECD initiative on Base Erosion and Profit Shifting (BEPS) has put the issue of treaty abuse and the means to counteract it on top of the global political agenda. Preventing treaty abuse is therefore currently one of the most debated topics in international tax law. Diverging national legal traditions in combatting abuse, both under domestic and tax treaty law, have led to a globally diversified legal framework in this respect and make the OECD's agenda to harmonize these attempts even more challenging.

The aim of this book is to analyze the notion of treaty abuse, its historical roots and the measures to counteract it. The book's topics cover a wide range of both policy and legal issues. The contributions' main focus lies on examining the proposals put forward by the OECD in BEPS action items 6 and 7. In addition, this book looks at the lessons which can be learnt from US tax treaty policy and elaborates on

the effects that the intensified fight against treaty abuse will have from a non-OECD member state perspective.

Also EU law is taken into account and the impact of the case law of the European Court of Justice on the development of new anti-avoidance rules is examined. Finally the relation between domestic and treaty based anti-avoidance is analyzed in great detail, identifying the methodical problems of ensuring a sound and abuse safe legal framework. With this book the authors and editors hope to contribute to the discussion on selected issues of preventing treaty abuse and the challenges they present to policy makers, judges, tax administrations, and tax advisers.

[www.lindeverlag.at](http://www.lindeverlag.at)



## LL.M. WEBSITE



We are pleased to present you the brand new Vienna LL.M. website which is now more closely aligned with the format and design of the WU website. We hope you enjoy it and we invite you to let us know your comments. Please log in the Alumni section, visit the database and make sure that your listing is up-to-date and appears correctly. This will help you to keep in touch and will offer great opportunities to network with other graduates.

Let's keep in touch!

[www.international-tax-law.at](http://www.international-tax-law.at)

## IMPRINT

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