

TAXATION LAW RESEARCH PROGRAMME

ASIAN INSTITUTE OF INTERNATIONAL FINANCIAL LAW

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FACULTY OF LAW

UNIVERSITY OF HONG KONG

TLRP NEWSLETTER No. 6

INTRODUCTION

This is the sixth Newsletter from the Taxation Law Research Programme (TLRP) at the Faculty of Law, University of Hong Kong. The TLRP is a programme within the Asian Institute of International Financial Law (AIFL), one of the Faculty's key research centres.

NEW LAW BUILDING

Cheng Yu Tung Tower located at the University's Centennial Campus
(<http://www.maps.hku.hk/#>)

All of the Faculty of Law including the TLRP moved to the new Law Building located at the new HKU Centennial Campus in mid-2012. The "Cheng Yu Tung Tower" provides first rate accommodation for staff and students and includes a range of new teaching facilities. The link above provides location details. The second half of 2012 was a period of "settling in" after the big move and also the period when the Centennial Campus was still being completed. TLRP activities were reduced accordingly at that time.

TLRP/AIFL VISITING PROFESSOR

Professor Adrian Sawyer, *College of Business and Law, University of Canterbury, Christchurch NZ*

Professor Adrian Sawyer visited the TLRP as our first TLRP/AIFL Visiting Professor in May/June 2013. This is a report from Professor Sawyer on his visit:



I was delighted to be able to have my first extended visit with the AIFL and TLRP after only being able to stay for a few days on previous occasions in 2011 and 2012. During my May and June visit this year, I was able to prepare a paper, which I presented on June 10, 2013 at HKU, and a similar version to the Hong Kong Institute of Certified Public Accountants (HKIPAs) on June 13, 2013. The view from the 11th floor conference room at the Cheng Yu Tung Tower is impressive! I also commenced work on a second paper, which I am completing while back home in New Zealand.

The seminar for the paper entitled: *Feeling the Heat: Will Hong Kong Succumb to International Pressure for Enhanced Transparency, Cooperation and Information Exchange on Taxation Matters*, went well with a reasonable number present. This paper reviews the current Inland Revenue (Amendment) Bill 2013, which seeks to expand Hong Kong's information exchange facilities, as well as the United

States' Foreign Account Tax Compliance Act. Specifically the paper examines Hong Kong's responses to date and makes predictions for what the future may hold for Hong Kong. I received several questions afterwards and a couple of attendees stayed on to discuss some matters further. Most importantly, I received several useful comments, which I have incorporated into the paper, along with comments from the presentation to the HKICPAs. An updated version has appeared as an AIIFL working paper, although this too will require further updating once LegCo has finalised what it is doing with the Bill (see <http://www.law.hku.hk/aiifl/research/conference-papers.html>).

I also commenced working on another paper that is looking at how Hong Kong could benefit from examining NZ's approach to tax policy development and reform. The paper entitled: *Establishing a Rigorous Framework for Tax Policy Development: Can New Zealand Offer Instructional Guidance for Hong Kong?*, emerged following discussions with the HKICPA and other conversations while at the University of Hong Kong. These discussions led me to a fresh approach for what was my original intended research project, namely a more close examination of how Hong Kong could implement a GST. I am seeking comment on this draft paper currently, with a view to publishing it.

Overall I found my stay to be profitable and rewarding, not only from an academic perspective in being able to undertake further research and observe LegCo (including following debates), but also to see some of the wonderful places in Hong Kong and sample different food etc. I am very grateful for the office and other facilities provided to me during my stay. It has been a pleasure to be here for a much longer visit and be hosted so wonderfully by everyone at HKU, including the Robert Black College staff. Special thanks are due to Flora Leung for her wonderful support and assistance both prior to and during my visit. My family were pleased to have me back home again. I will hopefully I will be able to have a short visit as a stopover next year when travelling to/from the UK.

TLRP PERSONNEL

Welcome to Dr Doreen Qiu, Dongmei



Doreen commenced her appointment at the Faculty as a Post Doctoral Fellow (PDF) in mid-July. Doreen is our second TLRP Post Doctoral Fellow replacing Dr Xu, Yan (see below).

Doreen earned her LLB, LLM and PhD degrees at Xiamen University, China. During 2007-2008 and 2009-2010, she was based at the International Tax Center of Leiden University to pursue study on international taxation and she acquired her second LLM degree whilst at Leiden. During her stay in the Netherlands, she worked as an intern at Ernst & Young engaging in the Chinese business tax service. From 2011, she served as Assistant Professor at the Law School of Xiamen University where she taught courses including International Tax Law and Chinese Property Law.

Her main research interests are Chinese taxation and international tax law. Doreen has published a book on thin capitalization rules and has also published articles in both English and Chinese in journals and periodicals including *The Bulletin for International Taxation*, *Tax Notes International*, *International Taxation*, *Taxation and Economy* etc.

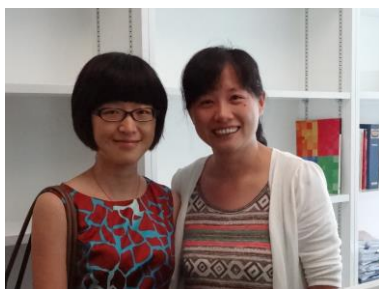
Doreen is now also a Research member of the TLRP and also an AIIFL Fellow. Her broad duties include: (1) undertaking research and writing related to PRC & International Tax Law & Policy; (2) participating in TLRP Research Team, Funding Applications; (3) assisting with TLRP

Seminars & Conferences (organizing and running); and (4) TLRP key liaison person for engaging with Tax Law and Policy Scholars in Mainland China.

Farewell and Best Wishes to Dr Xu, Yan

Yan started her appointment as an Assistant Professor at the Faculty of Law of the Chinese University of Hong Kong (CUHK) focusing on taxation in April 2012.

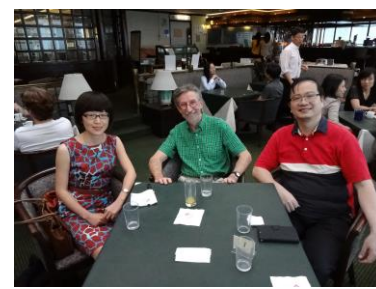
Yan commenced as the first TLRP PDF about three years earlier. During her time at HKU, she was particularly active in terms of research. She produced a wide range of articles and book chapters which have been published in Hong Kong and internationally (with a special focus on Environmental Taxation in China, VAT in China and Chinese Tax History). We were sorry to lose her but very pleased to see her secure a full time academic position at CUHK.



Left Photo: Dr Xu, Yan (left) and Dr Doreen Qiu (right)



Middle Photo: Dr Doreen Qiu (left); Professor Richard Cullen (middle) and Dr Xu, Yan (right)



Right Photo: : Dr Xu, Yan (left); Professor Richard Cullen (middle) and Mr Wilson Chow (right)

PAST TLRP/AIIFL ACTIVITIES

Conference

25 February 2012: **Third TLRP International Conference “The European Union and Greater China: Understanding the Fundamentals of the New Taxation Relationship”**

The European Union (EU) and Greater China - Mainland China, Hong Kong, Taiwan and Macau - (GC) comprise two of the key super-jurisdictions within the ‘new’ system of world trade which has evolved since 1989 (and since the commencement of China’s ‘open-door’ policy around 1978). The Taxation Relationship between the EU and GC is of rapidly growing importance. The International Tax dimensions of this relationship extend with each passing year.

Increasingly, the Municipal Tax aspects are of great interest. EU investment within GC continues notwithstanding currency-related difficulties within the EU. Moreover, as we look forward, it seems guaranteed that GC investment within the EU is set to lift significantly and continuously over coming decades. This Conference offered a comprehensive review of a range of key International Tax and Municipal Tax areas of concern arising out the complex, developing Tax Relationship between the EU and GC.

We were fortunate to have a number of recognised international speakers from the Institute for Austrian and International Tax Law at the Vienna University of Economics and Business (WU) in Vienna. This Institute is one of the foremost Taxation Law and Policy Research Centres in

the EU. A number of notable, international and local commentators also attended the Conference – each of whom provided commentary on presented papers at the Q&A sessions.



From left to right: Professor Johannes Chan, SC (Hon), Dean, HKU Faculty of Law presented the Opening Remarks at the Conference and Professor Richard Cullen, TLRP Director



Post Conference Dinner with Speakers

Intensive Course



***Sarah Hinchliffe**, Australian Legal Practitioner and Teaching Fellow at the University of Melbourne*

Sarah Hinchliffe conducted an Intensive Course “**An Introduction to International Taxation**” for the TLRP and AIIFL from 1 to 3 June 2012. She presented an introductory level course on the operation of international taxation as it applies to expatriates and businesses. The Course provided a comprehensive introduction to the current international tax regime operating in selected jurisdictions, including Hong Kong, Mainland China, Australia, the United Kingdom and the United States. The course was well attended and we will consider re-running it at a future date.

Seminars



10 June 2013

Feeling the Heat: Will Hong Kong Succumb to International Pressure for Enhanced Transparency, Cooperation and Information Exchange on Taxation Matters?

***Professor Adrian Sawyer**, University of Canterbury
(Left to right: Professor Adrian Sawyer and Wilson Chow, HKU, TLRP Director)*

After the Seminar, Professor Adrian Sawyer submitted a paper as **AIIFL Working Paper No. 15 “Feeling the Heat: Will Hong Kong Succumb to International Pressure for Enhanced Transparency, Cooperation and Information Exchange on Taxation Matters?”**. The paper may be downloaded at <http://www.law.hku.hk/aiifl/research/conference-papers.html>.



11 April 2013

Designing a General Anti-abuse (avoidance) Rule

Professor Judith Freedman, CBE, Professor of Taxation Law and Director of Legal Research, Oxford University Centre for Business Taxation

The UK is currently considering the introduction of a General Anti-Avoidance Rule (GAAR). Professor Freedman, a pre-eminent Tax Scholar in the UK, discussed this new (to the UK) very important change in the Tax Regime.



8 November 2012

Harmful Tax Competition Between Member States of the EU

Dr. Patricia Lampreave, Lawyer and an Accredited Tax Professor in Spain
(Left to right: Dr Patricia Lampreave and Professor Richard Cullen, TLRP Director)



4 October 2012

A GST/VAT Can Be Made to Work Well in a Small Jurisdiction with Time: The New Zealand Experience

Professor Adrian Sawyer, University of Canterbury



26 March 2012

The EU Commission's Proposal for a Financial Transaction Tax

John Vella, Senior Research Fellow, Oxford University Centre for Business Taxation
(Left to right: John Vella and Dr Xu, Yan, former TLRP PDF)



27 February 2012

**Will the United States Government Ever Again
Have a Functioning Budgetary System?**

*Professor Neil H. Buchanan, The George Washington
University Law School*

We welcome your comments and suggestions for further research and other activities in the taxation area. Please feel free to email Professor Richard Cullen at richard.cullen@gmail.com or Flora Leung at fkleung@hku.hk.

We look forward to your continuing support.