

25th anniversary of the F.A.Z. Tax Conference

A report by Prof. Dr Wilhelm Haarmann, HAARMANN Law, Tax & Arbitration, Frankfurt am Main-Kronberg

The F.A.Z. Tax Conferences celebrated their 25th anniversary at this year's conferences held from 25 to 27 February. The conferences were launched in 2001 as the Haarmann Hemmelrath Tax Conference and have since 2025 been held as a joint conference comprising the F.A.Z. International Business Tax Conference and the F.A.Z. Tax Conference for Business. The conference language for the first conference is English, and for the second, German. Prof. Dr Wilhelm Haarmann, who chaired the conference this year as he has done every year since 2001, and Prof. Dr Alexander Hemmelrath, co-founder of the conference in 2001, were both present at this year's conference.

Since its inception in 2001, these have been the guiding principles of the conference:

1. The aim is to ensure a high standard of both practical and academic quality across all programme items.
2. The content of the conferences is the presentation and discussion of findings in national, European and international tax law, as well as in tax theory, taking into account tax policy. Equally important is the intensive exchange of views amongst all conference participants.
3. Both conferences serve as a meeting place for all professional groups involved in or interested in taxation: Members of the Bundestag (i.e. the German Parliament), officials from the ministries of finance and tax offices, judges of the Federal Fiscal Court, the Federal Court of Justice and the tax courts, university professors and academics specialising in tax law and tax theory, heads and staff of corporate tax departments, associations and other organisations, legal, tax and other advisers with a connection to taxation.
4. The conferences have an international scope through the involvement of all international organizations relevant to the tax sector (UN, OECD, European Union [Commission, Parliament, European Court of Justice], International Fiscal Association) as well as representatives of foreign finance ministries, universities, companies and consultancy firms and organizations.

The conferences have been held in Berlin at the Hotel Adlon since 2001. This is intended to provide a high-quality setting to match the high-quality content of the conferences. The hotel's location in Berlin is very convenient, both for members of the German Bundestag and for officials of the Federal Ministry of Finance.

As in previous years, there were once again many excellent speeches and presentations.

Prof. Dr h.c. Wolfgang Schön, Director of the Max Planck Institute for Tax Law and Public Finance in Munich, delivered, as he has done on many previous occasions, the opening address, this time on the topic of "Tariffs and the International Tax Order". **Prof. Dr h.c. Clemens Fuest**, President of the ifo Institute in Munich, gave a lecture this year, as he has done for many years. His topic this year was: "Tax Policy and Economic Growth".

Other German university professors who have been key pillars of the event for many years include **Prof. Dr Heribert Anzinger**, University Ulm, **Prof. Dr Klaus-Dieter Drüen**, University of Munich (LMU), **Prof. Dr Michael Fischer**, University of Erlangen-Nuremberg, **Prof. Dr Johanna Hey**, University of Cologne, **Prof. Dr David Hummel**, soon to be at the University of Erlangen-Nuremberg, **Prof. Dr Philipp Lamprecht**, University of Frankfurt/Main, **Prof. Dr Ekkehart Reimer**, University of Heidelberg.

The Federal Ministry of Finance was represented by **State Secretary Dr Rolf Bösing**, Head of Department **MDin Anette Wagner** and two heads of sub-departments, each attending only one panel. Special thanks go to the finance ministries of the federal states. Their officials are of great value in staffing the panels. Likewise, the judges of the Federal Fiscal Court and the tax courts are key pillars of the conference. For many years, the President of the First Senate of the Federal Fiscal Court has usually attended (most recently **Dr Peter Brandis**; this year, the new President, Dr. Ulrich Schallmoser, was unable to attend; Judge **Markus Märten** from the First Senate of the Federal Fiscal Court attended instead). Likewise, the President of the Fifth Senate (**Dr Christoph Wäger**) has been attending for a long time, as has the President of the Eighth Senate (**Prof Dr Monika Jachmann-Michel**) for the past few years. In most years, the President of the First Criminal Senate of the Federal Court of Justice, **Prof. Dr Markus Jäger**, has attended our conference, but was unable to attend this year. From the very beginning, the conference has also had an international focus. **Dr Achim Pross** from the OECD has attended this conference every year since one of the very first conferences. The European Commission was also involved from a very early stage, represented for many years by **Dr Dieter Kischel**. In 2026, four representatives from the European Commission attended the conference, including **Benjamin Angel**, Director responsible for direct taxation, tax coordination and economic analysis and evaluation, as well as **Harold Nyssens**, responsible within the Directorate-General for Competition for tax subsidies and the fight against aggressive tax planning. The conference has had the honor on many occasions of welcoming the Advocate General at the European Court of Justice, **Prof. Dr Dr Juliane Kokott**, who has delivered presentations and participated in various panels. **Univ.-Prof. DDr Gunter Mayr**, Head of the Tax Department at the Ministry for Finance in Vienna and University Professor at the University of Vienna, was often an active participant at the conference, very often accompanied by his wife, the university lecturer **Univ.-Prof. Mag. Dr Daniela Hohenwarther-Mayr** – both also took part in various panels in 2026. **Philip Baker, KC**, from London had also attended the tax conference in Berlin many years ago, and **Mike Williams** from the UK Treasury was a regular participant for many years until his retirement. **Peter Blessing** from the USA, now for several years Associate Chief Counsel at the Internal Revenue Service, took a liking to the tax conference early on, but was unable to attend this year. On several occasions the Deputy Assistant Secretary for International Tax Affairs at the US Treasury Department has attended our conference. This year we were delighted to welcome **Rebecca Burch** in this capacity via a video conference. Special thanks go to the moderators of the individual panels and presentations. These speakers came in 2026 from 22 law firms and audit and consultancy firms and were among the cornerstones of the conference. Special thanks go to the tax managers in companies and their staff, who attend the conference and participate in large numbers on the panels. Their involvement ensures that the conference is

an event by practitioners for practitioners. This is what constitutes the greatest value of the conference.

Country reports: Focus on digitalisation and the global minimum tax

A report by Lisa-Marie Mönch, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

At the international country panels, leading experts provided detailed insights into the latest developments in key tax jurisdictions. The focus was on the issue of permanent establishments, the global minimum tax and digital advances in Eastern Europe.

Western Europe: Permanent establishments and working from home

The panel on Western Europe addressed the complexity of cross-border permanent establishments. Dr Christian Wimpissinger (Binder Grösswang, Vienna) noted that Austria takes a more flexible approach here than the more restrictive Germany. In practical terms, Prof. Dr Christian Dorenkamp (Deutsche Telekom, Bonn) recommended a strict functional separation, for example through separate email addresses for different roles. Nathalie Gossement (France) praised the new OECD commentary for providing greater legal clarity, whilst Prof. Guglielmo Maisto (Maisto e Associati, Milan) emphasized advance rulings as the best form of risk protection. Dr Eva Oertel (Bavarian Finance Ministry) and Dr Astrid Eiling (LMPS law firm Düsseldorf) see the transaction matrix as an opportunity for efficient audits. Moderator Prof. Dr Pasquale Pistone (Vienna University of Economics and Business) summed up: Cross-border work requires ex-ante solutions.

North America and the United Kingdom: Erosion of the global minimum tax?

The panel of experts discussed the erosion of the global minimum tax. Prof. Dr Joachim Englisch (University of Münster) warned that the US 'side-by-side package' could create a knock-on effect leading to further exemptions in other countries. Scott Levine (Baker McKenzie, Washington D.C.) did not, however, see this as a structural advantage for US firms. For small states such as Ireland, James Somerville (A&L Goodbody, Dublin) emphasised the growing importance of research funding. Whilst Jack Bernstein (Aird & Berlis, Toronto) reported on Canadian rules for hybrid arrangements, Prof. Philip Baker, KC (Field Court Tax Chambers, London) explained the implementation of the OECD Transfer Pricing Guidelines in the United Kingdom. Sam Kaywood (Alston & Bird, Atlanta) added details on US reforms under the OBBBA. Prof. Dr Pistone urged caution regarding the risks of working from home.

Neighbouring countries: Between funding and the debt brake

Prof. DDr. Gunter Mayr (Austrian Federal Ministry for Finance) highlighted the 14 per cent research grant and 'horizontal monitoring', whilst Dr Wimpissinger analyzed recent court rulings. According to Fabian Baumer (FTA, Bern), Switzerland faces a balancing act between the debt brake and expenditure; Prof. Dr Pascal Hinny (Lenz & Staehelin, Zurich) referred to recent referendums on, among other things, inheritance tax. Dr Florian Regli (Roche, Basel) warned of the competitive disadvantage compared to the US. For Belgium,

Koen Morbée (Tiberghien, Brussels) outlined the planned capital gains tax, and Dr Joost van Helvoirt (Loyens & Loeff, Amsterdam) reported on the reorganisation of transparency rules for investment vehicles in the Netherlands. The experts agreed that complexity is set to increase.

Eastern Europe: A Pioneer in Digitalisation

Under the leadership of Dr Henrik Sundheimer (Grant Thornton, Düsseldorf) and drawing on the academic perspective of Prof. Dr Daniela Hohenwarter-Mayr (University of Vienna), Eastern Europe's digital lead became clear. Helen Pahapill (Ministry of Finance, Estonia, Tallinn) and Dr Kaido Künnapas (Sorainen, Tallinn) explained the Estonian dividend taxation system. Dr Aistė Medelienė (Tax Lawyer, Vilnius) highlighted the efficiency of binding rulings in Lithuania, whilst Iulia Dragomir (bpv, Bucharest) discussed the Romanian e-invoicing system. For Poland, Sławomir Łuczak (SK&S, Warsaw) addressed the new high tax burden on banks (up to 30 per cent) and the tax authorities' direct access to accounting data, whilst Akos Barati (Jalšovszky, Budapest) concluded with the Hungarian tension between R&D incentives and wealth tax.

Tax developments relating to the UN, the OECD, the EU and the USA

A report by Marcel Ziebegk (on the United Nations and the OECD) and Lisa Diederichs (on the EU and the USA)

Developments at the United Nations

Until the end of January 2026, Michael Lennard was Head of the Division for International Tax Cooperation at the United Nations (UN). He outlined the ongoing work of the two different UN bodies. The current focus is on the taxation of digital services and the concept of permanent establishments. Lennard emphasized that double taxation agreements (DTAs) between two states must prevent double taxation as well as double non-taxation. He announced two protocols to supplement the UN Model Tax Convention for the end of next year. Their application would be optional for states. Against the backdrop of the OECD/G20's Inclusive Framework on BEPS, Lennard formulated the guiding principle for the UN's work: an inclusive framework that does not truly include everyone cannot be effective. In doing so, he underscored the call for a genuine intergovernmental dialogue and the involvement of emerging and developing countries. Prof. Dr Ekkehart Reimer (University of Heidelberg) explained that the UN Model Tax Convention was "merely text" and yet very effective.

Developments at the OECD

Dr Achim Pross (OECD) provided an overview of the OECD's current key areas of focus in tax policy. Pross began by emphasizing the importance of tax transparency and tax certainty. Tax transparency encompasses the disclosure of tax-relevant information to the authorities and between countries, and also has implications for domestic companies. Legal certainty regarding tax regulations is relevant for practitioners of tax law. The predictability of tax consequences is a central aspect of the OECD's current work. The focus is also on

issues of global mobility. Pross emphasized the opportunities offered by digital transformation, particularly with regard to administrative burdens. He described a tax audit as a system audit that examines companies' systems rather than the figures produced by the system. He also provided an update on the status of the worldwide implementation of the global minimum tax (Pillar 2). Prof. Dr Roland Ismer (University of Potsdam) voiced sharp criticism. Only 58 countries had introduced the global minimum tax. This was "more than Europe, but fewer than the world."

Developments at EU level

Two well-attended panel discussions were devoted to reporting on tax policy planning at European level. Regarding initiatives in the area of direct taxation at EU level, Benjamin Angel (European Commission) explained that the European Commission's current priority lies in the implementation of major simplifications. Pillar 2 has transformed the international tax landscape and now functions as a 'general safety net' – significant simplification measures for multinational corporate groups are now planned. The administrative burden on businesses is to be reduced, the guarantee of material security increased, and business operations thereby made easier. Moderated by Prof. Dr Florian Haase (RÖDL, Hamburg), Prof. Dr Heribert Anzinger (University of Ulm) provided an academic analysis of the existing system, whilst Georg Geberth (Siemens, Munich) contributed the perspective of a multinational company. On the subject of indirect taxation, Emmet Campbell (European Commission) gave a short presentation which examined in detail the EU's so-called ViDA package (VAT in the Digital Age). He presented the three pillars of the initiative – digital reporting based on e-invoicing, the extension of regulations to the platform economy and single VAT registration – and provided an outlook for the coming years. Together with moderator Annette Pogodda- Grünwald (BDO Berlin), Johanna Padeloup (tesa SE, Hamburg) and Prof. Dr David Hummel (adviser to the European Court of Justice, Luxembourg) discussed the impact the reform will have on the economy.

Developments relating to the USA

Rebecca Burch (U.S. Department of the Treasury, Washington D.C.) joined the meeting via video link to discuss tax developments in the USA. The main topics of discussion were the recently published compromise on global minimum taxation and the future of taxation in the digital economy. Rebecca Burch emphasized that the agreement on the recently published so-called 'Side-by-Side Package' had restored the US's lost confidence in multilateral agreements. With regard to the future of taxation of the digital economy (Pillar 1), she expressed the hope that a 'constructive dialogue' at the level of the OECD Inclusive Framework. Sylvia Heckmeier (Infineon, Munich-Neubiberg) highlighted that, from the perspective of German companies, achieving planning certainty was a key aspect. What a multilateral agreement regarding the future of taxation of the digital economy might look like was generally regarded as a central open question. The so-called digital services taxes, which were introduced in Europe by some countries years ago, are viewed very critically in the US. During a session moderated by Christoph Becker (Baker McKenzie, Frankfurt/Main), Prof. Dr Joachim Englisch (University Münster) pointed out that such taxes would have the same economic effect as tariffs on digital services. Scott Levine (Baker McKenzie, Washington D.C.) added that the digital services taxes currently in place in Europe

sometimes differ substantially and that, due to a lack of coordination between them, they would in some cases lead to double taxation.

Tariffs: Here to stay

A report by Lisa-Marie Mönch, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

Customs duties are becoming increasingly significant in tax law practice. In his keynote address “Tariffs and the International Tax Order”, Prof. Dr Wolfgang Schön (Max Planck Institute for Tax Law and Public Finance, Munich) highlighted this profound shift: Whilst customs duties and traditional tax law were once regarded as separate disciplines, these boundaries are now becoming increasingly blurred. According to Schön, the assumption that customs duties are a relic of the past is no longer tenable. In an era of gridlocked WTO tribunals and waning multilateralism, tariffs are experiencing a renaissance as an instrument of unilateralism – be it as a levy on physical goods or in the form of digital taxes. Schön took a particularly critical view of the USA. A recent ruling by the Supreme Court had clarified that the government may not unilaterally impose tariffs on the basis of emergency powers (IEEPA); the decision-making authority lies with Congress. Schön recommended reading this ruling as a clear rejection of the current US tariff policy, which massively distorts the global market.

Challenges for the global tax system

The return of customs duties raises fundamental questions for the international tax system. According to Schön, it must be clarified how customs duties can be integrated into the system of double taxation agreements in future. Whilst within the EU, the customs union imposes a strict ban on import duties, the question of creditability arises globally. Should countries of destination be able to raise tariffs independently, this would create a dangerous incentive that would put pressure on export-oriented countries in particular.

The US Paradox

From a US perspective, the speaker highlighted an interesting paradox: Imposing tariffs on locally manufactured products would effectively amount to the introduction of a value-added tax. However, such a proposal meets with resistance across the entire political spectrum in the US – albeit for different reasons. The Democrats reject such a tax on the grounds of its regressiveness, as it would place a disproportionate burden on low-income earners. The Republicans, on the other hand, fear that a general consumption tax could open up virtually unlimited sources of revenue for the state and lead to uncontrolled expansion of the government apparatus.

Schön's conclusion was clear: customs duties will continue to be part of the tax landscape in the future. The academic and practical examination of the interface between customs law and tax law is only just beginning.

The major panel discussion on European and international tax law

A report by Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

Prof. Dr Sebastian Benz (Seitz, Cologne) chaired the panel discussion on European and international tax law. The topics of discussion were (1) the role of the USA in the context of international agreements, (2) the new Side-by-Side Package, (3) simplification of international tax rules and their administrative feasibility, and (4) the role of the United Nations.

The first topic of discussion was the US's commitment to multilateral efforts. With regard to the taxation of the digital economy (Pillar 1), Scott Levine (Baker McKenzie, Washington D.C.) noted that tax practitioners would have to await developments in the discussion on the OECD Inclusive Framework. Prof. Dr Gunter Mayr (Austrian Federal Ministry of Finance) outlined the development of taxation of the digital economy in Austria. They were following the discussion at OECD level. Benjamin Angel (European Commission) emphasized that clarity and stability were needed for businesses. The current situation was opaque. The European Commission was in consultation with the US tax authorities.

In January, the so-called Side-by-Side (SbS Package) was agreed, a compromise between the US and the OECD. Under this arrangement, there could be a coexistence of OECD rules on global minimum taxation (Pillar 2) and qualified taxation regimes. Prof. Dr h.c. Wolfgang Schön (Max Planck Institute) pointed out that this was an intergovernmental agreement. What was needed was a binding and robust legal basis. The European Commission might wish to consider an optional but uniformly implemented directive on the taxation of the digital economy. Dr Achim Pross (OECD) explained that the SbS package provides important guidelines for the application of the law. Contrary to some claims, the CbC package, as a new standard, does not increase the complexity of applying the law. Overall, the panel assessed the CbC package positively. There was also broad agreement that simplifications of international tax regulations are needed.

Prof. Dr Dres h.c. Juliane Kokott (ECJ) placed SbS within the context of the EU's values and fundamental freedoms. The ECJ would apply the law as it stands. In particular, it would be necessary to examine whether US corporations meet the conditions for the non-application of Pillar 2. She emphasized the importance of European fundamental rights.

With regard to the role of the United Nations in international tax legislation, Silke Bruns (Federal Ministry of Finance, Berlin) explained that Germany, like the majority of UN member states, participates in the OECD Inclusive Framework. This is the leading forum for standard-setting in international tax law.

Between tax planning and legal certainty: An update on international income tax law

A report by Lisa Diederichs and Lisa-Marie Mönch, research assistants at the Chair of Tax Law and Civil Law, University of Frankfurt am Main, and Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

EU Direct Taxation Directives

Chaired by Prof. Dr Ditz (FGS, Bonn), the panel discussed experiences and preferences regarding EU directives on corporate taxation. There was support for simplifying the regulatory framework (decluttering/ simplification). Benjamin Angel (European Commission) held out the prospect of simplifications. Representatives from industry and consultancy called, amongst other things, for companies already subject to the minimum tax to be exempted from additional taxation.

International taxation of interest, licences and hybrid income

The panel led by Dr Thomas Schänzle (WTS Frankfurt/Main) discussed withholding tax on cross-border payments. Panelists reported shorter processing times for applications to the Federal Central Tax Office (BZSt). Discussions centred on the tax authorities' new guidance note on the right to relief under Section 50d (3) of the Income Tax Act (EStG). Prof. Dr Reimer (University of Heidelberg) argued that the provision was sufficiently precise. No new legislation was required.

Transfer pricing and permanent establishments

In the panel chaired by Dr Yves Hervé (Nera), Roland Bodenstein (Kion, Wiesbaden) used a practical example to demonstrate that the grouping of transactions continues to give rise to fundamental discussions during tax audits. Kevin Lüking (Continental, Hannover) and Daniel Teixeira (Sandoz, Basel) highlighted the need to maintain the best possible documentation, which may nevertheless be subject to uncertainty due to the time lag in audits by the tax authorities.

Aggressive tax planning, state aid and anti-abuse rules

In his opening remarks, Harold Nyssens (European Commission) summarized the current developments in state aid law in the panel chaired by Prof. Dr Mathias Birnbaum (Forvis Mazars) the current developments in state aid law. Subsequently, Prof. Dr Dres h.c. Juliane Kokott (ECJ Luxembourg) and Prof. Dr Christine Osterloh-Konrad (University of Tübingen), among others, spoke on current ECJ case law on tax avoidance.

Cross-border mobility

Dr Achim Pross (OECD) introduced the topic and outlined the OECD's current initiatives, such as so-called public consultations. Other panelists explained how the OECD's work has a positive practical impact and increases legal certainty, for example due to new guidelines stating that working from home does not generally constitute a permanent establishment. The challenges of global labor mobility were examined from the perspective of multinational companies and analyzed from an academic standpoint.

Tax implications of moving to and from within and outside Europe

Representatives from various EU Member States, as well as the United Kingdom and
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Switzerland, presented the tax specificities of their countries of origin that arise for taxpayers when moving to or from those countries. The different tax implications were vigorously discussed and analyzed.

Disruption in tax law

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

Prof. Dr Wilhelm Haarmann raised the question of whether, in times of significant technological and political change, tax law too might need to undergo disruption. With a smile, he remarked that he could put forward some bold proposals here – since he was not a politician, he did not, after all, have to worry about their implementation.

Even though amendments to the German Basic Law (i.e. the German Constitution) would be difficult to implement, he nevertheless wished to raise such issues: taxes should be assigned to the respective local, regional or federal authority, at whose level the respective tasks are to be carried out and financed. There should be a right to levy taxes on every level of authority, so that, in theory, aside a federal income tax the collection of a state income tax would be possible. All tax assessment bases should be reviewed by a single ‘tax office’. This tax office should not only receive tax returns, but also, among other things, review grants and subsidies. It thus acts as a service provider for the local, regional and federal authority on the one hand and for citizens on the other. Regarding the tax assessment procedure, Prof. Dr Haarmann explained that a standardized digital self-assessment should be implemented, verified primarily by artificial intelligence. A tax return must be submitted by every taxpayer; where necessary, also by parents on behalf of their children. In substantive tax law, a reduction to two types of income should be implemented: ‘income from earnings’ and ‘income from capital’.

In addition, a uniform corporate tax, irrespective of legal form, should be introduced, but only for companies with primary commercial activities. Inheritance tax should be abolished. It results in a significant international competitive disadvantage for small and medium-sized family businesses; any preferential treatment of these businesses that complies with the principle of equality cannot be achieved without abolishing the tax. As an alternative to inheritance tax, an adjusted wealth tax could be established, which, however, must be strictly capped in terms of amount and limited in such a way that income tax and wealth tax together must not exceed a certain percentage of income.

In the context of VAT, a zero rate should be introduced for the provision of medical services and the letting of residential properties, whilst service providers should simultaneously be granted a full input tax deduction. VAT on medicines should be abolished entirely.

Dr Gottfried Breuninger (Allen Overy Shearman) described the keynote as a “firework display of new ideas”, some of which could certainly be implemented in specific areas. In a subsequent discussion, Prof. Dr Roman Seer (University of Bochum) critically assessed some of the reform proposals from his perspective.

Functions and operations of a modern tax department

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

Dominik Wellmann (Mercedes-Benz, Stuttgart) began his presentation on the topic “Mindset Change in a German corporate tax department” by saying that he likes to compare a company’s tax department to a library: in both places, there is a wealth of knowledge that goes unused because nobody knows where to find it. The modern tax department of a company must see itself as an active “business partner” that translates tax expertise into measurable added value for the company – it no longer limits itself to merely ensuring compliance with tax regulations. To bring about such a “mindset change” in a tax department, the first step is to ask why the tax department exists in the first place: On the one hand, a tax department creates added value by ensuring compliance and acting as a “guardian”. On the other hand, it ensures that trust is built with senior management, shareholders, various departments within the company and the tax authorities. A modern self-image within the tax department requires the establishment of a culture of learning from mistakes (“fail forward”), in which mistakes can be discussed transparently – including with the tax authorities.

Continuous learning – including at management level – and the development of employees’ individual strengths are crucial to success. Artificial intelligence must be deployed in the tax function specifically where it is actually superior to human capabilities. The moderator of the panel discussion, Dr Daniel Zöller (RSM Ebner Stolz, Stuttgart), agreed: For him, too, change also has a lot to do with employee leadership for him. Sylvia Heckmeier (Infineon, Munich-Neubiberg) also expressed her full agreement. The days of an inward-looking tax department are over – the future lies in sharing information. In this regard, trust must be built not only within the company, but also externally.

Prof. Dr Roman Seer (University of Bochum) added with a smile that his contribution would now be disappointing for anyone who had hoped for a controversy, as he, too, agreed completely. In the transition from a confrontational to a cooperative fiscal state, a basis of trust could be developed by a company creating and internalizing a compliance system. In his view, the company would then deserve a benefit of the doubt in its relationship with the tax authorities, and concepts such as ‘real-time auditing’ or a concurrent audit based on the Austrian model would be entirely conceivable.

Growth-oriented corporate taxes

A report by Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

In his presentation on current tax legislation in Germany, Dr Rainer Kambeck (German Chamber of Industry and Commerce, DIHK, Berlin) praised one of the measures known as a growth booster: the Act on an Immediate Tax Investment Programme to strengthen Germany as a business location.

He praised the swift implementation of the package of measures. In particular, it includes the

gradual reduction of the corporate tax rate and the temporary introduction of declining balance depreciation for movable fixed assets. He also noted that “reforms are needed in the area of inheritance tax”.

Kambeck criticised the fact that the reduction in the corporation tax rate decided in the middle of last year will only take place gradually from 2028 onwards, by one percentage point per year until 2032. The timing is too late. Furthermore, the phasing of the tax cut is driven by political motives. A one-off tax rate cut and the resulting loss of tax revenue would take effect immediately, whereas any self-financing of the measures through increased economic output would only materialize in the future. Democracy must act with foresight. Furthermore, a one-off rather than a phased reduction in the nominal tax rate for companies would send a signal internationally regarding Germany as a business location and its competitiveness. The DIHK therefore recommends a one-off reduction in the corporation tax rate from 15 to 10 per cent as of 1 January 2027.

Tangible fixed assets acquired by the end of 2027 may be depreciated on a declining balance basis at a rate of up to 30 per cent per annum. Kambeck explained that the temporary introduction of declining balance depreciation has historically been used to provide economic stimulus. It would be desirable to extend the current, temporary concessions indefinitely in order to achieve a lasting improvement in financing conditions. With regard to depreciation, Kambeck sees further potential for simplification. The tables currently used by the tax authorities to determine the normal useful life of an asset, on the basis of which they calculate the depreciation period, are in any case a highly categorized approach. Therefore, the categories could be defined much more broadly for the sake of simplification.

Kambeck concludes that the measures implemented so far are “good measures, but not the decisive ones”. In particular, he argues, they have had no noticeable positive effects for companies operating at a loss. Federal legislation is not yet doing enough to promote economic growth and the tax competitiveness of the Federal Republic as a business location. The focus must be placed on growth prospects.

The role of data in tax management

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

Moderator André Hengst (Ernst & Young, Berlin) opened the panel discussion on the topic of “Taxation and Artificial Intelligence, Digital Technology and Compliance”, by putting forward the proposition that “Data is the oil of the 21st century” for discussion: tax management is data management. Prof. Dr Heribert Anzinger (University of Ulm) explained that he shared this thesis in all its ambivalence. Whilst oil as a raw material used to symbolise prosperity, today it also stands for climate change. Similarly, the availability of too much data nowadays could pose a risk, as compliance obligations would increase with greater data availability. Furthermore, high data availability could also reduce the legislator’s duty to create simplifying or standardised regulations, as data for the respective specific calculation is, after all, available. In response, Georg Geberth (Institute for Digitalisation in Tax Law e.V.) objected that companies often do not have the ability to actually access all available data, as

its granularity is so high. Nancy Schanda (Deutsche Börse, Frankfurt/Eschborn) added that the lack of data availability is linked to the fact that there is no full control over the respective data processing procedures. Tanja Schumacher (Brenntag Group, Essen) agreed: it is important to assess who is responsible for data management in each individual case and where the interfaces lie. In practice, this requires a great deal of communication.

Stefan Werner (Group tax auditor for the State of Brandenburg, speaking in a personal capacity) went on to explain that analysing the available data also presents challenges: for instance, it is computationally impossible to actually audit 4,000 VAT transactions from a single company in their entirety. Structured data is required in tax audits and, in his view, one should therefore in some cases 'apply the General Fiscal Code (AO) more strictly' and also carry out direct access to systems. In any case, the decisive factor is how one interacts with one another during the tax audit. On the subject of tax compliance, it was discussed that data processing is also complicated by the existence of a wide variety of inconsistent processing systems. Particularly within corporate group structures, standardization presents an organisational and financial challenge: In many cases, companies' confidence in the profitability of investing in a tax control system with a view to simplifying tax audits is not yet sufficiently high.

In the discussion on the topic of Artificial Intelligence (AI) in the tax sector, André Hengst emphasized the enormous potential for increasing efficiency. Whilst AI does make mistakes, it is important to bear in mind: "Which human assistant delivers 100 per cent correct results in their first or second year?"

Between tax planning freedom, abuse of tax planning and tax evasion

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

The panel discussion on "The German General Fiscal Code and Criminal Tax Law" was opened by Dr Walther Graf (Feigen-Graf Rechtsanwälte, Cologne) with the remark that tax planning which makes use of available structuring options is now regarded in the public eye as "the devil's work". Cases that are clearly relevant under criminal law – such as VAT carousels, bogus residences in tax havens or Cum- Ex transactions – have, in public discourse, shifted the boundaries between advisory services and criminal law. In the case of Cum-Cum, the panelists discussed what they considered to be legal tax planning and what constituted abusive planning. Kai Sackreuther (Senior Public Prosecutor) objected that tax planning in itself was not problematic: every taxpayer was free to structure their affairs as they wished. They were merely required to disclose all facts which, in their view, might be relevant for tax purposes, including to the tax authorities. Prof. Dr Monika Jachmann-Michel (Federal Fiscal Court) explained that in order to determine whether a structure is inappropriate, it must first be established what an alternative appropriate structure would have been. At the very least, one cannot tell the taxpayer, "your structure ends if it is not tax-efficient". Prof. Dr Klaus-Dieter Drüen (Ludwig Maximilian University) added that the tax liability should arise in the same way as it would have arisen had the arrangements been

appropriate.

In a further section of the programme, disclosure obligations towards the tax authorities were discussed. Mathias Hildebrandt (Enpal B.V., Berlin) presented a recent judgment by the Federal Fiscal Court (BFH), which essentially concerns the very far-reaching obligation to submit emails as business correspondence. Prof. Dr Ulf Freytag (Fresenius SE & Co. KGaA, Bad Homburg) raised the question of what the decision meant for business practice. Franz Hruschka (Munich Tax Office) clarified that, from the tax auditor's perspective, only information that could have an impact on the tax base is relevant.

Nancy Schanda (Deutsche Börse, Frankfurt-Eschborn) then presented a new statutory provision, the so-called 'duty to report and correct', under which a taxpayer must, under certain conditions, correct the findings of an external tax audit in future tax returns themselves. Many questions regarding its application remain unresolved at present. The moderator of the panel, Dr Carsten Heinz (Noerr, Munich), added that, in his view, it was questionable what would happen if an agreement had been reached during the tax audit, but the company was of the opinion that this agreement did not comply with the law. Would failure to report or correct the findings then give rise to criminal liability?

Recent developments in tax policy in Germany

A report by Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

News from the tax authorities

Anette Wagner (Federal Ministry of Finance) provided an overview of current tax policy initiatives in Germany. Within the tension between competitiveness, tax fairness and practicality, the Federal Government is working on forward-looking tax policy.

Against this backdrop, there will be no tax reform drawn up on the back of a "beer mat". The desire is understandable, but does not do justice to reality. Complex issues require a nuanced response. Nevertheless, the Federal Ministry of Finance is committed to making tax matters simpler. Wagner cited, among other things, automatic tax assessment, digital tax returns via the Elster-Software and the exemption of retirement income from the obligation to file a tax return. She held out the prospect of simplifications at EU level and highlighted the work of the expert commission on simplified corporate tax.

Industry demands at the tax policy panel discussion

Dr Georg Roderburg (Freshfields, Düsseldorf) chaired the panel, which comprised representatives from industry, the governing parties, academia and the tax authorities. The measures of the so-called investment booster are seen as positive impulses, but from the industry's perspective they are insufficient. The side-by-side package was received positively. Likewise, there was agreement among the business representatives that simplifications in international corporate tax law are needed. They called for the standardization of reporting obligations and the timely conduct of tax audits. With regard to the global minimum tax, business representatives complained that the compliance burden is disproportionate to the benefits, particularly for activities in countries with high nominal tax rates such as Germany.

Parliamentary Round Table

Prof. Dr Wilhelm Haarmann chaired the Parliamentary Round Table. The panel consisted of spokesmen for tax policy from the parliamentary groups in the Bundestag and was supplemented by representatives from the business sector, academia and the tax authorities. Fritz Güntzler (CDU) explained that tax policy is location policy. Germany must become competitive. To achieve this, legal certainty and the reduction of red tape are needed. Katharina Beck (Alliance 90/ The Greens) explained that competitiveness must be considered holistically. She spoke in favour of investment incentives and research funding. Frauke Heiligenstadt (SPD) emphasised the rapid implementation of tax legislation proposals by the current federal government. Dr Rolf Bösing (Federal Ministry of Finance) noted that an income tax reform was in the pipeline. It required simplifications and appropriate offset measures.

Current issues in national and international corporate taxation

A report by Lisa Diederichs and Lisa-Marie Mönch, research assistants at the Chair of Tax Law and Civil Law, University of Frankfurt am Main, and Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

Current Issues in Group Taxation

Dr Matthias Scheifele (Hengeler Mueller, Munich) chaired the panel on group taxation. Matthias Schubert (SAP, Walldorf) raised concerns regarding the trade tax treatment of cloud infrastructure services. The debate centered on the separability of services in relation to the purpose of the trade tax addition. In addition, tax-neutral third-country conversions and group financing were discussed. Dr Markus Märtens (Federal Fiscal Court) explained that the purpose of the anti-abuse provision on harmful share acquisitions should be regarded as taking precedence over the conflicting annual principle of loss set-off.

Taxation of shareholders and investors in limited companies

During the panel discussion on the taxation of GmbH shareholders chaired by Dr. Gottfried Breuninger (Allen Overy Shearman), Gunther Sennlaub (Federal Central Tax Office) reported on the reduction of the backlog in processing exemption applications, the guidance note on Section 50d (3) of the Income Tax Act (EStG), and the capital gains tax refund for GmbHs held by a US parent company that are treated as disregarded entity. Prof. Dr Monika Jachmann- Michel (Federal Fiscal Court) presented current case law of the Federal Fiscal Court on interest on capital gains tax refunds in cases of excessively long proceedings, distributions to foreign parent companies, millionaire funds as well as on Cum/Ex and Cum/Cum.

Experiences with the global minimum tax

After Dr Achim Pross (OECD) had outlined the current status of the global minimum tax , a panel of experts chaired by Dr Daniel Zöller (RSM Ebner Stolz, Stuttgart) analysed the implementation of the OECD's "Side-by-Side Package". In doing so, Dr Alexander Mann (Hesse Ministry of Finance) and Franz Hruschka (Munich Tax Office) provided the

perspective of the tax authorities. Volker Nickel (DZ BANK, Frankfurt/Main) used case studies to illustrate the hurdles companies were facing under the current rules. In addition, Dr Michael Hölzl (Siemens Energy, Munich) and Holger Engelke (Munich Re, Munich) also called for an urgent simplification of the regulatory framework.

Tax law relating to balance sheets, taxation of partnerships and financing

Moderated by Dr Christian Hundeshagen (Linklaters, Frankfurt/Main), Volker Nickel (DZ BANK, Frankfurt/Main) presented recent case law from the Federal Fiscal Court on so-called 'non-genuine' physical division and the treatment of treasury shares. Harald Dewert (Schaeffler, Herzogenaurach) took a critical look at the interest deduction cap. Kirsten Birnbaum (osapiens Holding, Mannheim) reported on the reform proposals for partnerships from the expert commission on 'Simplified Corporation Tax'. Each of these presentations was followed by a lively discussion with Stephan Rochow (Federal Ministry of Finance), Dr. Markus Märtens (Federal Fiscal Court) and Prof. Dr. Philipp Lamprecht (University of Frankfurt).

Germany as a location for investment funds from a tax law perspective

A report by Lisa-Marie Mönch, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

Dr. Marcus Helios (Grant Thornton, Frankfurt/Main) opened the expert panel with an overview of the new Location Promotion Act. The panel participants, including Dr. Florian Bentele (Allianz Global Investors, Frankfurt/Main), generally welcomed the changes. Nevertheless, there were critical voices: Prof. Dr Carsten Meinert (University of Potsdam) pointed out that the legislator could have set out more precise guidelines for the tax authorities – particularly regarding the exact criteria for “active entrepreneurial management”.

A major advantage of the law, according to Wladimir Leonhard (Universal Investment, Frankfurt/Main), is the elimination of the complicated monitoring of permissible assets. Dr Florian Bentele added, somewhat hyperbolically, that this would remove a typical “playground for lawyers”, as the rules are now clearer. Lutz Boxberger (Golding Capital, Munich) remained skeptical, however, and expects that there will still be contentious cases of application in the future. Bastian Hammer (German Investment Funds Association (BVI) Frankfurt/Main) emphasized that these simplifications are crucial to the attractiveness of Germany as a business location.

Another hot topic of discussion was the ELTIF 2.0 (European long-term investment fund). Despite the current hype – which Franz Schober (BNP Paribas, Frankfurt/Main) has also observed in the private banking sector – there are practical hurdles. Bastian Hammer warned that the “democratization” of private asset classes was reaching its limits here: many bank branches were technically and administratively not yet in a position to handle such complex products for private clients. Florian Herzberg (BlackRock, Berlin) confirmed the enormous interest, but emphasized that new, alternative distribution channels would likely have to be found for this.

Legislative action required: Taxation of property

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

During the panel discussion on income, land acquisition and turnover taxation of property a wide range of practical issues was discussed. Dr Thomas Böcker (Universal Investment, Frankfurt/Main) began by outlining new developments and outstanding issues arising from the recently announced Real Estate Fund Location Promotion Act for real estate funds operating photovoltaic systems on building roofs.

On the question of whether costs for climate protection investments in buildings can be capitalized as production costs or are always immediately deductible maintenance expenses, Dr Armin Ilka (Heimstaden Germany, Berlin) outlined differing views between IDW (Institute of Public Auditors) on the one hand and the Federal Ministry of Finance on the other. Jörg Schindler (Vonovia, Bochum) confirmed that this issue causes “headaches” in practice. Torsten Bock (Tax Court Berlin- Brandenburg) noted that courts are bound neither by the IDW’s opinion nor that of the BMF – it will be interesting to see how case law positions itself in future. Moderator Dr Stefan Behrens (Clifford Chance, Frankfurt/Main) summarised: “The IDW and the BMF meant well, but the final step is missing: legal surety.” Julia Leopold (DZ BANK, Frankfurt/Main) examined issues relating to the transfer of ownership of buildings on third-party land as security. This was followed by a discussion on the potential for multiple land acquisition tax liabilities in various scenarios. Regarding a recently published draft bill concerning the treatment of so-called ‘signing/closing’ cases, those being on the panel agreed that there is still a need for legislative adjustment. Karlheinz Konrad (President of the Munich Fiscal Court) noted: “There is a certain tension between legislative intent and the wording of the text.”

In a final set of topics, Dr Guido Staccioli (Dyckerhoff (Wiesbaden)) presented case law from the ECJ and the Federal Fiscal Court on the VAT classification of the letting and sale of land with business premises.

Inheritance tax, gift tax and taxation of foundations

A report by Marcel Ziebegk, a PhD student under Prof. Dr Heribert Anzinger, University of Ulm

During the panel discussion, moderated by Dr Astrid Eiling (LMPS Düsseldorf), Torsten Bock (Tax Court Berlin-Brandenburg), Prof. Dr Michael Fischer (University of Erlangen-Nuremberg), Karlheinz Konrad (Tax Court Munich) and Werner Thumbs (Frankfurt/Main) discussed Federal Fiscal Court case law and recent developments regarding inheritance tax, gift tax and the taxation of foundations.

Topics covered included the application of inheritance tax relief for business assets in the case of a notional usufruct, the restriction of the tax class privilege to transfers to domestic foundations and the revised version of the non-tax provisions for foreign foundations.

Prof. Dr Michael Fischer (University of Erlangen- Nuremberg) presented the Federal Fiscal

Court judgment II R 19/24. The central question was whether, in the case in question, the increase in value of the GmbH shares constituted a mixed gift. The recipient, a GmbH shareholder, had not received any direct gift. Through the sale of GmbH shares by another shareholder to the company, the value of his own shares had increased. There was neither an intention to make a gift on the part of the donor nor an intention to enrich oneself on the part of the acquirer. The tax office initially assumed a mixed gift. The Federal Fiscal Court overturned the judgment of the Tax Court, which had required an awareness of (partial) gratuitousness and thus denied the existence of a gift. This goes beyond the wording of the relevant provision. A subjective element is not required. Rather, this constitutes an independent basis for acquisition and the fiction of a gift in the event of an increase in the value of company shares through a payment to the limited liability company. This presentation was followed by a discussion on joint venture activities. Shareholders' withdrawals could trigger gift tax without the recipient shareholders being aware of it. A scenario was discussed in which the pricing of the GmbH shares upon withdrawal depended, for gift tax purposes, on the valuation at the level of the remaining shareholders.

Value Added Tax with a focus on European law

A report by Lisa Diederichs, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

During the 'VAT' panel discussion, a wide range of practical issues was discussed. Dr Jan de Weerth (Deutsche Bank, Frankfurt/Main) introduced the topic by contextualizing VAT issues relating to transfer pricing in light of recent case law from the European Court of Justice. Prof. Dr David Hummel (Adviser to the European Court of Justice) explained when adjustments to transfer pricing were, in his view, possible. Subsequently, Prof. Dr Joachim Englisch (University of Münster) provided a substantive overview of the complex field of state aid law. He presented a structured analysis of when, according to case law of the ECJ, an unlawful state aid exists, and took a critical stance on the criteria outlined.

As a transition to the next topic, moderator Annette Pogodda-Grünwald (BDO Berlin) remarked with a smile that the discussion was now returning "down to earth". Jasmin Sa-Ah (Otto GmbH & Co KG, Hamburg) and Bernd Brinkamp (Vodafone GmbH, Düsseldorf) highlighted the current challenges facing their companies in connection with the introduction of e-invoicing: problems ranged from choosing a suitable e-invoice format to the question of how to correct an incorrectly issued e-invoice. Another major issue is master data maintenance, to ensure the availability of the data required for invoicing.

Dr Christoph Wäger (Federal Fiscal Court) concluded his presentation by discussing incorrect invoices: Regarding the question of the period for which input tax deduction may be claimed in each case, a recent judgement by the Court of the European Union is currently causing a stir.

German foreign tax law and double taxation agreements: Recent developments

A report by Lisa-Marie Mönch, research assistant at the Chair of Tax Law and Civil Law, University of Frankfurt am Main

The tax conference concluded on Friday afternoon with a panel discussion on the handling of cross-border cases from the perspective of German law. As moderator Prof. Dr Florian Haase (RÖDL, Hamburg) noted, the Federal Fiscal Court generally interprets double taxation agreements statically, based on the circumstances at the time when the agreement was concluded. The tax authorities essentially endorsed this last December in a letter from the Federal Ministry of Finance, without completely closing the door to a dynamic consideration of subsequent circumstances. During the panel discussions, this gave rise to fears of new uncertainties. Dr Gregor Gehauf (BMW, Munich), as an industry representative, called for prompt regulation regarding working from home. Dr Andreas Körner (Volkswagen, Wolfsburg) contrasted the views of tax case law with those of practice. In business, he said, one is neither “a static nor a dynamic thinker, but rather a pragmatist.” His presentation also provided an overview of substance requirements as well as practical guidance on implementation. Under the heading “Good questions, bad questions” Körner illustrated the complexity of inbound and outbound cases.

Prof. Dr Anzinger (University of Ulm), who was standing in for Prof. Dr. Gerhard Kraft (University of Halle/Saale), pointed out that the distinction between the freedom of establishment and the free movement of capital, as well as the preclusive effect of secondary legislation, had not been definitely clarified in academic circles. In such cases, one could also draw on the Charter of Fundamental Rights to support one’s argument. Finally, Dr Gehauf spoke on permanent establishments in the context of the tension between national and international law. He commented in particular on issues of demarcation regarding unmanned permanent establishments, such as data centres or wind farms.