

# TAXATION LAW RESEARCH PROGRAMME

ASIAN INSTITUTE OF INTERNATIONAL FINANCIAL LAW

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FACULTY OF LAW

UNIVERSITY OF HONG KONG

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## TLRP NEWSLETTER No. 1

### INTRODUCTION

The Taxation Law Research Programme (TLRP) has recently been established within the HKU Faculty of Law's Asian Institute of International Financial Law (AIFL).

The Foundation Members of the TLRP are:

- Professor Andrew Halkyard
- Associate Professor Wilson Chow
- Visiting Professor Richard Cullen

It is particularly appropriate that the TLRP is being established within the Faculty of Law and based within AIFL. It was the late Professor Peter Willoughby who established serious academic tax research in Hong Kong, after he commenced work with the Faculty in 1973. Peter is also remembered as a pioneer of legal education in Hong Kong, and is thought of fondly by both colleagues and students.

As the University website notes:

The *Peter Willoughby Memorial Fund* was established in 2000 to sponsor a memorial lecture in memory of the late Professor Peter Willoughby and his invaluable contribution to the Faculty of Law and legal education in Hong Kong.

The tradition of academic research with respect to Tax Law has remained especially strong within the Faculty for around three decades. Professor Andrew Halkyard has been working in this field in Hong Kong, initially with Peter Willoughby, since 1985 and is the author of the *Hong Kong Encyclopaedia of Taxation* (a looseleaf 4 volume practitioners' work, with Wilson Chow and Susan Leung). Andrew and Wilson have been active with AIFL since its foundation in 1999.

Other key contributors over the years have been Michael Olesnick and Jeff VanderWolk, both of whom have written extensively on Hong Kong Tax Law. Michael was with the Faculty from 1982 to 1988 and is now the Senior Partner of Baker & McKenzie's China Tax Group, based in Hong Kong. Jeff was with the Faculty from 1991 to 1994. He is now Managing Director – Head of Pacific Rim Tax of Merrill Lynch, based in Hong Kong. Both Michael and Jeff still regularly write on Hong Kong, regional, and international tax issues and are very well known within the Hong Kong tax community.

Since its foundation in 1999, AIFL has hosted a number of academics dealing with taxation related issues, and taxation law and policy is one of our five core research areas. As one of the leading commercial, corporate and financial law and policy academic research centres in the

region, AIIFL is committed to supporting research in taxation law and policy and providing active support for the development of the TLRP.

More recently, Professor Richard Cullen has joined the Faculty. Richard, who is also a Public Law expert, has written on and taught Tax Law in both Hong Kong and Australia. His most recent work has looked at the relationship between the development of the Hong Kong tax regime and the development of its political structure. Richard has also been an active AIIFL Fellow since joining HKU.

## **TLRP OBJECTIVES**

The TLRP has been established:

- To foster research, including comparative research, on Hong Kong, Mainland and Asian Taxation Law and related policy areas.
- To explore the Public Law as well as the Private Law dimensions of tax policy and operating taxation systems.
- To establish research collaboration links with other taxation research institutes internationally (*International Tax Research Network [sponsored by the OECD], Monash University – Taxation Law and Policy Research Institute (TLPRI) and ATAX – UNSW, being examples*) and with Universities with which HKU has strong existing collaborative links in the taxation field (*NUS and Kyushu University, being examples*).
- To engage in collaborative research projects with staff in other institutions in Hong Kong (and abroad) and with research-minded persons in the private sector.
- To seek funding, as appropriate, through research grants and other sources, to undertake relevant Tax Law research projects.
- To provide public sector, capacity building consultancy services on tax policy development and tax system operation.
- To conduct lectures / workshops / seminars / conferences focusing on Tax Law research.
- To run one major Tax Law Conference in Hong Kong at least every two years.

An Advisory Board for the TLRP is being established. It is expected that the Advisory Board will include:

- Other academics interested in research on Tax Law;
- Tax Law specialists from within the government; and
- Members of the practising profession.

We expect a number of TLRP activities will involve public policy aspects of Tax Law, which should present excellent opportunities to work in conjunction with the Centre for Comparative and Public Law (CCPL) in the FLW.

## RECENT TLRP ACTIVITIES

### *The Legacy of UK Taxation Law Abroad Conference – December, 2007*

The conference was jointly organized with the Taxation Law and Policy Research Institute (TLPRI) at Monash University, in Melbourne, Australia. Professor Rick Krever, Director of the TLPRI, suggested the original concept: a comparative conference drawing in leading commentators from a representative range of jurisdictions which had historically been influenced by British Tax Law (and *lore*). He and the members of the TLRP were successful in attracting excellent speakers from: Australia; Canada; Hong Kong; Israel; New Zealand; South Africa; and the United States.



*The Conference in session (above)*



*Conference speakers and organizers (below)*

The conference was very well attended, demonstrating, once more, that there is a notable level of interest in serious tax research amongst practitioners and academics in Hong Kong. It was particularly pleasing to see a large contingent from Hong Kong's Inland Revenue Department in attendance.

The papers presented were lively, sometimes provocative and widely engaging. Spontaneous feedback during and after the conference confirmed that the concept and the presentations worked very well. It is expected that papers from the conference will be collectively published later this year in a major international tax journal.

### *Visit of Nolan Sharkey – December, 2007*



In early December 2007, the AIIFL TLRP hosted a visit to Hong Kong by Nolan Sharkey, Senior Lecturer in Tax Law, at the Australian School of Taxation (ATAX) at the University of New South Wales in Sydney, Australia.

Nolan (*pictured at left*) is the leading academic commentator in Australia on PRC Tax Law. During his visit to the Faculty, Nolan gave a Public Lecture and a Staff Seminar.

One striking aspect of the visit was the very strong enrollment to attend the Public Lecture, where Nolan spoke on the recent major changes enacted by the 2008 Enterprise Income Tax Law in the Mainland. It is clear that interest in the operation and reform-direction of Tax Law on the Mainland is growing rapidly in Hong Kong. The TLRP has taken note of this. We will work on catering to this growing interest in the future.

#### *Visit of Professor John Prebble – November, 2007*

Professor John Prebble, (*pictured below*) one of New Zealand's best known Tax Law academics visited HKU in November, 2007.



He presented a Public Lecture entitled: “Jurisprudential Perspectives on Taxation Law”. This lecture looked hard at the development of Tax Law argumentation across the years from a theoretical standpoint. Professor Prebble was very successful in generating lively discussion amongst a significant number of attendees notwithstanding the quite demanding academic perspective of the lecture.

#### *Other News*

Professor Lee Burns visited Hong Kong in January, 2008 to meet with Richard Cullen. Lee is a Professor in Taxation Law at the University of Sydney. Lee specializes in International and Comparative Tax Law. He was a major contributor to the leading comparative tax work - *Tax Law Design and Drafting*. Lee is also the author of *Controlled Foreign Companies: Taxation of Foreign Income* and for many years was a co-author of *Australian Taxation Law*.

In January 2008, a joint paper by Richard Cullen and Richard Simmons (Lingnan University, Hong Kong) entitled: “Tax Reform – and Democratic Reform - in Hong Kong: What do the People Think?” won the prize for Best International Paper at the 2008, Australasian Tax Teachers’ Association Conference, in Hobart, Australia.

### **FUTURE TLRP ACTIVITIES**

We see the development of our future programme as being an ongoing project. We will keep you informed on these developments.

We have already made some progress in this regard.

- Our intention is to hold a major Tax Law Conference (like that held in December 2007) at least once every two years. We are already considering possible topics for 2009. (*We would welcome suggestions in this regard, too.*)
- We are negotiating for an international tax academic to stopover at the Faculty in September 2008 to give a seminar – more on that shortly.

- We are also negotiating to attract another renowned commentator on PRC Tax Law to visit the TLRP – hopefully during 2008.

**For further information on the TLRP please contact either:**

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We would be very pleased to hear from you and welcome your suggestions for future research and other activities.

If you would like to receive further information about the TLRP in future, please complete the reply form below and fax it to Flora Leung at (852) 2549 8495 or email your contact details to Flora Leung at [fkleung@hku.hk](mailto:fkleung@hku.hk).

We wish everyone a very happy, healthy and prosperous Year of the Rat!

<b>Taxation Law Research Programme</b>		
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