

TAXATION LAW RESEARCH PROGRAMME
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**Taxation in Mainland China:
Tax Law or Administrative Rulings – Which is “King”?**

Wei Cui

Associate Professor, China University of Political Science and Law, Beijing

Wednesday, 2 June 2010, 1:00 - 2:00 pm
Room 303, 3/F KK Leung Building, University of Hong Kong

A decade after the adoption of the Legislation Law in the PRC, “normative documents”— the use of which the statute was intended to curb—are as popular among Chinese government agencies as ever, and in many areas still overshadow more legitimate sources of law. The hierarchy of legal norms set out in the Legislation Law consequently can seem remote from daily administrative practice. This seminar reviews the production and use of normative documents in tax regulation, and examines: (A) why bureaucrats prefer normative documents over formal regulations; (B) why protocols for producing normative documents often lapse; and (C) how informal practices affect the content of normative documents. Professor Cui argues that the use of normative documents must be understood in light of wider phenomena such as: (1) the absence of norms and procedures for public input (or lobbying) in law- and regulation-making; and (2) taxpayers’ unwillingness to uphold legal norms through formal dispute resolution. This means that the Legislation Law must be thought of as only part of a more general effort to reform the administrative state. For advocates of the rule of law, it is important to make that more general effort a subject of study. Professor Cui will give specific examples involving the use of problematic normative documents.

Wei Cui is an Associate Professor at the China University of Political Science and Law in Beijing and has held visiting professorships at Fordham Law School and the National Taiwan University Law School. He was a recent consultant to the Budgetary Affairs Commission of the National People’s Congress and the Tax Policy Division of the Ministry of Finance (MOF) on VAT legislation, and to the MOF and State Administration of Taxation in drafting income tax rules for corporate reorganizations and foreign tax credits. In addition, since 2008, he has advised the China Investment Corporation (CIC) on its overseas investments, and currently serves as CIC’s Senior Tax Counsel. Professor Wei Cui received his B.A. from Harvard College, M.A. (philosophy) from Tufts University, J.D. from Yale Law School, and LL.M. (tax) from New York University Law School.

The Seminar will be conducted in English.

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email Flora Leung at flkleung@hku.hk to reserve a place.

