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University of Luxembourg  
Inaugural Lecture

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Bâtiment Weicker

Salle B001

4, rue A. Weicker

L-2721 Luxembourg



UNIVERSITÉ DU  
LUXEMBOURG

Faculty of Law,  
Economics  
and Finance

# Prof. Dr. Werner Haslehner

## The Concept of Income in EU Tax Law



In its direct tax jurisprudence, the European Court of Justice often refers to the concept of 'income' and closely related notions, such as 'loss' or 'realised gain'. While this is hardly surprising considering their central role for direct taxation, it is not obvious what the ECJ means when it makes such references or arguments based on them.

There is no agreement of what 'income' is in the abstract; it has a clear meaning only ever within the legal context where it is defined for a specific purpose. In the absence of much more comprehensive EU-wide harmonisation than has so far been achieved, the concept is thus necessarily a national one. It will be argued that the ECJ may not have always been sufficiently aware of this, thus mistaking a legal concept for something 'real', which can result in contradictory judgements and also infringe upon Member State competence in tax matters.

The lecture will outline various inconsistencies arguably stemming from this misconception that continue to plague ECJ case law today and propose solutions that flow from a consistent understanding of 'income' as a legal concept to be defined primarily in national law, albeit with certain limits derived from EU law.

**Werner Haslehner** is professor and holder of the ATOZ Chair for European and International Taxation, and director of the LL.M. Programme in EU and International Tax Law at the University of Luxembourg. He previously held full-time academic positions in Austria and the UK, before coming to Luxembourg as an associate professor in 2013. In his research, he focuses on all aspects of international taxation, including the impact of EU law, and tax policy. He is a member of the scientific committee of the Association Luxembourgeoise d'Études Fiscales (ALEF), deputy member of the academic committee of the European Association of Tax Law Professors (EATLP) and a member of the ECJ Task Force of the Confédération Fiscale Européenne (CFE).

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*Introduction by Prof. Dr. Stefan Braum, Dean of the Faculty of Law, Economics and Finance. A reception will be held after the inaugural lecture.*