Certificate in German Taxation Laws

Tax Disputes and Appeals

Abgabenordnung (AO): The German Fiscal Code, which contains the fundamental provisions for the assessment and collection of taxes in Germany.

Amtshilfe: Administrative assistance between tax authorities in different countries to enforce tax laws and collect taxes. This is governed by the European Union (EU) Mutual Assistance Directive and the Convention on Mutual Administrative Assistance in Tax Matters.

Außerstreitige Steuerrecht: Out-of-court dispute resolution in tax matters, which includes binding information requests, advance tax rulings, and mutual agreement procedures.

Betriebsprüfung: A tax audit of a business, which is conducted by the tax authorities to ensure that the correct amount of tax has been paid.

Binding Information Request (BI): A procedure in which a taxpayer can request a binding statement from the tax authorities on the tax treatment of specific transactions or situations.

Doppelbesteuerungsabkommen (DBA): A tax treaty between two countries that aims to prevent double taxation of income or capital.

Einspruchsverfahren: The formal objection process in which a taxpayer can challenge an assessment or decision made by the tax authorities.

Festsetzungsverfahren: The assessment procedure in which the tax authorities determine the amount of tax due based on the information provided by the taxpayer.

Gewerbesteuer: A tax on commercial activities, which is levied on the profits of businesses and self-employed individuals.

Grundsteuer: A tax on real property, which is levied on the value of land and buildings.

Körperschaftsteuer: A tax on corporate profits, which is levied on the profits of corporations and other legal entities.

Lohnsteuer: A tax on employment income, which is withheld by the employer and paid directly to the tax authorities.

Mutual Agreement Procedure (MAP): A procedure under a tax treaty in which the tax authorities of two countries cooperate to resolve disputes about the tax treatment of cross-border transactions.

Schenkungsteuer: A tax on gifts, which is levied on the value of the gift.

Steueranpassungsgesetz: A law that adjusts tax laws to reflect changes in economic or financial conditions, or to implement changes required by EU law.

Steuerberater: A tax advisor who is licensed to provide tax advice and assistance in Germany.

Steuerhinterziehung: Tax evasion, which is the deliberate failure to pay taxes owed, either by underreporting income or overstating deductions.

Steuerstrafrecht: Tax criminal law, which deals with the criminal prosecution of tax offenses.

Umsatzsteuer: Value-added tax (VAT), which is levied on the sale of goods and services.

Vorsteuer: Input tax, which is the VAT paid on purchases of goods and services that are used to produce taxable supplies.

Zerlegungsgesetz: A law that governs the allocation of tax revenues between the federal government, the states, and the municipalities.

Challenges:

1. Understanding the complexities of the German tax system and the various types of taxes, such as Gewerbesteuer, Grundsteuer, Körperschaftsteuer, Lohnsteuer, Schenkungsteuer, and Umsatzsteuer.
2. Navigating the various dispute resolution mechanisms, such as the Einspruchsverfahren, the Binding Information Request (BI), and the Mutual Agreement Procedure (MAP).
3. Keeping up-to-date with changes in tax laws and regulations, such as those introduced by the Steueranpassungsgesetz.
4. Dealing with the complexities of international taxation, such as double taxation, transfer pricing, and the application of tax treaties.
5. Understanding the criminal aspects of tax law, such as Steuerhinterziehung and Steuerstrafrecht.
6. Communicating effectively with the tax authorities, using appropriate language, terminology, and formats.
7. Applying the principles of good tax governance, such as transparency, accountability, and risk management.
8. Balancing the interests of the taxpayer and the tax authorities, while ensuring compliance with the law and protecting the taxpayer's rights.

Examples:

1. A German company wants to expand its business to another EU country and is unsure about the tax implications of this move. It can use the Mutual Agreement Procedure (MAP) to resolve any disputes about the tax treatment of its cross-border transactions.

2. A taxpayer receives a notice of assessment from the tax authorities, but believes that the assessment is incorrect. The taxpayer can file an objection (Einspruchsverfahren) and provide evidence to support its case.
3. A taxpayer wants to know how a specific transaction will be treated for tax purposes. The taxpayer can submit a binding information request (BI) to the tax authorities and receive a binding statement on the tax treatment of the transaction.
4. A taxpayer is unsure about the VAT treatment of its sales and purchases. The taxpayer can use the input tax (Vorsteuer) mechanism to reclaim the VAT paid on its purchases, as long as the purchases are used to produce taxable supplies.
5. A taxpayer is accused of tax evasion (Steuerhinterziehung) and faces criminal charges. The taxpayer can seek the advice of a tax advisor (Steuerberater) to understand the charges and defend itself in court.

Practical applications:

1. Using the Binding Information Request (BI) procedure to obtain clarity on the tax treatment of specific transactions or situations.
2. Filing an objection (Einspruchsverfahren) to challenge an assessment or decision made by the tax authorities.
3. Applying for a mutual agreement procedure (MAP) under a tax treaty to resolve disputes about the tax treatment of cross-border transactions.
4. Keeping up-to-date with changes in tax laws and regulations, such as those introduced by the Steueranpassungsgesetz.
5. Seeking the advice of a tax advisor (Steuerberater) to understand the tax implications of business decisions and to ensure compliance with the law.
6. Applying the principles of good tax governance, such as transparency, accountability, and risk management, to ensure that the tax function operates effectively and efficiently.
7. Balancing the interests of the taxpayer and the tax authorities, while ensuring compliance with the law and protecting the taxpayer's rights.
8. Communicating effectively with the tax authorities, using appropriate language, terminology, and formats, to ensure that the taxpayer's position is understood and considered.