



## **Official Rules of the Iberoamerican Tax Moot Court Competition**

### **SECTION I: GENERAL PROVISIONS**

#### **Article 1. The Competition**

- 1.1. The Iberoamerican Tax Moot Court Competition (hereinafter referred to as ‘the Competition’) will be held annually.
- 1.2. During 2020, the Competition will have three rounds, the written phase, the qualifiers, and the final oral phase.
- 1.3. The qualifiers will be held by means of the information and telecommunication technologies (ICTs).
- 1.4. The final oral phase of the Competition will take place in the city where the Iberoamerican Observatory on International Taxation (hereinafter OITI) celebrates its ordinary annual meeting or by means of the ICTs if the Pandemic unleashed by Covid-19 makes it impossible to personally meet in the designated city. The General Secretariat will decide if the oral phase of the Competition is carried out virtually or not. This decision will be notified to all teams on September 10<sup>th</sup>, 2020.

#### **Article 2. Organization**

- 2.1. The Competition is organized by the OITI
- 2.2. The General Secretariat of the OITI (hereinafter GS) is in charge of the administrative organization of the Competition. The GS is located at Universidad Externado de Colombia, Tax Law Department, Carrera 1 # 12 - 66 Piso 2° (Casa de las Mandolinas) Tel.: 2826066 - 3419900 Ext.: 1175/1176/1177, e-mail: mootcourt@oiti.org
- 2.3 The GS shall each year determine the number of teams to be admitted to the Competition and to each one of its rounds. It shall also determine whether it is necessary to hold national preparatory rounds and which rules shall apply to such rounds.

#### **Article 3. Structure of the Competition**

Making abstraction from possible preparatory rounds and depending on the number of participating teams, the Competition shall consist of three phases:

3.1. A written phase in which all teams have to prepare written memoranda for both applicant (taxpayer) and defendant (tax administration), based upon a hypothetical problem of international tax law.

3.2. The qualifiers, in which all teams will defend orally, before a jury composed by OITI members or other distinguished professionals of international tax law, the arguments presented in the written memoranda. For the qualifiers the teams will be distributed by lot.

3.3. A final oral phase, in which the best four teams of the qualifiers, will have to defend orally the arguments on behalf of the tax payer and the tax administration.

#### **Article 4. Time schedule**

The time schedule for each year's Competition shall be established and diffused by the GS.

#### **Article 5. The case and clarifications**

5.1. The case to be argued will consist of a hypothetical problem dealing with international tax law. Care is to be taken to avoid that participants of one particular country would have the advantage of dealing with the question from the perspective of their national tax law. Therefore, the case shall either deal with rules of imaginary countries to which the conventional international tax law rules have to be applied or with the rules of existing countries, in which case all relevant national provisions for this Competition have to be included in the case and the argumentation of the participants cannot be based on other national provisions.

5.2. The GS shall invite a body of experts in international tax law, totally independent from the participants to the competition, to prepare and draft the case. The authors of the case will remain anonymous.

5.3. The case for the two preliminary rounds and the oral phase will be distributed to all registered teams following the Time Schedule set forth by the GS. New elements could be added to the case for the oral phase and the final. Such new elements will be diffused just after the proclamation of the results of the qualifiers and after the proclamation of the finalists.

5.4. The debate must be bound by the facts of the case. No additional facts and representations may be introduced into the Competition. Statements of facts alleged by a team that are not considered in the case should be disregarded. Judges shall enforce this rule strictly in both the memoranda and oral arguments and shall evaluate the team's efforts accordingly.

5.5. Participants may submit by e-mail a maximum of 20 requests for clarifications

that are pertinent to understanding the initial case. If there are more than 20 requests it will be only answered the first 20 requests. These requests shall be addressed to the GS within the time limit indicated on the Time Schedule. The subject field of the e-mail shall clearly indicate that the message contains questions concerning the case of the Competition.

5.6. Requests for clarifications on the case should be limited to matters that would appear to have legal significance in the context of the case. The request may include a short explanation justifying the importance of the clarification. If a clarification is unclear or irrelevant to the case, the GS may disregard it.

5.7. The clarifications given by the GS become part of the case. It shall be diffused to all participating teams.

## **Article 6. Participation and eligibility**

6.1. Any university or similar institution that organizes specific tax courses in international tax law at the degree level, the specialization level, the master level or the doctoral or PhD level, is eligible to participate with a team in the Competition, upon formal acceptance by the GS.

6.2. As previous requirement for the participation in the Competition each team must have been paid the established fee by the GS.

6.3. Each participating university or institution may register only one team.

6.4. A team may be composed by students enrolled in more than one university or institution, previous authorization of the GS.

## **Article 7. Participants Requirements**

7.1. A team must consist of students, enrolled by the time of the competition, in any program of the university or institution, or developing their thesis to obtain the corresponding title.

7.2. Students older than 28 years at the moment of the competition will only be allowed to participate upon authorization of the GS.

7.3. Students can only participate in a total of two non-consecutive Competitions.

7.4. The participating students shall conduct themselves in a sportsmanlike manner at all stages of the Competition.

## **Article 8. Team composition**

8.1. Participating teams shall consist of not less than two students (one as applicant and one as defendant, or both students as applicant and as defendant) and no more than four students.

8.2. Any change in the composition of a team is prohibited after the team registration, unless a team member has to withdraw due to serious and unexpected circumstances. A team contemplating withdrawal of a team-member shall communicate the circumstances of the requested withdrawal to the GS. The GS may, at the request of the team, decide that another student meeting the conditions will be registered in place of the team member withdrawn. In case this request is denied, the team may continue participating with the remaining members, as long as such remaining members are at least two.

### **Article 9. Team registration**

9.1. Registration in the Competition consists on the submission of the official registration form and the commitment to pay the registration fee.

9.2. The official registration form has to be submitted to the GS in the terms and the date indicated on the Time Schedule.

9.3. Team members' names shall be clearly printed or typed on the form, with attention given to the spelling of each Team member's name. Names will appear in the manner that Team members wish them to appear on their participation certificates. In case the team members are not known at the date of the registration, the composition of the team must be informed to the GS in accordance with the Time Schedule.

9.4. As part of its registration for the Competition, each team shall designate one person to act as team contact (for example, this person may be the team captain, coach, counsel or faculty advisor). Notifications made to the team contact shall represent acknowledgment of all team members. Communications between the team and the GS must be carried on through the team contact.

9.5. The team contact shall provide an e-mail address where the communications will be sent.

### **Article 10. Anonymity of the teams**

For the assessment of the written memoranda, strict anonymity of the teams is required. Each team shall upon registration be assigned a number during the Competition. Teams shall use their team number for identification purposes. The name of the university or the name or the nationality of the team members must not be mentioned to the juries in the written and oral proceedings.

## **Article 11. Fee**

11.1. The GS shall each year determine the fee per participating team for the competition. For 2020 the fee will be 200 USD per team, and it only covers the registration cost.

11.2. The fee shall be paid within the time limit indicated in the Time Schedule established by the GS. The team shall be officially entered in the Competition only after the registration form has been submitted.

11.3. The fee shall be paid in cash before, in the terms established by the GS.

11.4. Withdrawal of a registered team shall not give right to any refund unless events of force majeure or acts of nature occurred.

## **Article 12. Outside assistance**

12.1. Outside assistance which would interfere with the final product being the exclusive work of the team members is prohibited and will be penalized by the GS.

12.2. Although the students should do all the research and writing of the memoranda by themselves, without assistance from anyone who is not a student member of the team, faculty members, coaches or team advisors may (i) discuss the issues in general, (ii) help identify them, (iii) give suggestions such as related to research sources, (iv) comment on the persuasiveness of the arguments the students have come up with, and (v) give training in presentation in public.

12.3. Under no circumstances shall anyone who has in any way participated in the drafting of the case or who has viewed the benchmark memorandum give outside assistance to any of the participating teams.

## **Article 13. Ethical violations and use of opposing team's memoranda**

13.1. All ethical violations will be referred to the GS. Teams who have received inappropriate outside or professional assistance or who have committed plagiarism shall be disqualified.

13.2. No team shall have access to any memoranda of another team, except for the respective applicant and defendant memoranda of the opposing team on the day before of the pleading session, either during the qualifiers or the final oral phase. It is nevertheless permissible for a team to incorporate the arguments and other information from memoranda and oral arguments of other teams they have legally viewed during the Competition.

## **Article 14. Juries**

14.1. For the written phase, the qualifiers, and the final oral phase, the juries shall be effective or retired members of the bench, practicing or retired lawyers or active or retired university professors who are or have been professionally active in the fields of international taxation.

14.2. Faculty advisors, team coaches and other persons directly affiliated with a team cannot act as a judge for such team.

14.3. Members of the jury shall disqualify themselves from judging a team if they have a personal relationship with a team member, only if that relationship might jeopardize their impartiality. Judges should not disqualify themselves merely because they are an alumnus of a university or institution, because they have an acquaintance with a team member or other affiliation or relationship with the university or institution. The GS shall notify the jury of any potential conflict of interest. The jury shall settle the matter before acting as a judge for the session in question.

## **SECTION II: THE WRITTEN PHASE**

### **Article 15. Written memoranda**

15.1. Each team has to prepare typewritten memoranda, providing arguments for both the applicant (taxpayer) and the defendant (tax administration), following the provisions laid down in Annex A, and in part I and II of this document.

15.2. The memoranda have to be written in English. Memoranda written in other languages will not be admissible.

15.3. Only the students shall research and write the team's memoranda.

15.4. The team contact person shall submit a memoranda in support of the applicant's position (A) and the defendant's position (B) to the GS via e-mail before the deadline indicated in the Time Schedule. If for any reason the use of e-mail would be impossible, circumstance that must be proved, teams are also allowed to send a physical support containing the memoranda to the GS by mail. The physical support must be entrusted to the post office no later than the time indicated in the Time Schedule for the submission of the e-mail version. The GS may disqualify the teams which fail to submit the memoranda as applicant or as defendant by the time indicated in the Time Schedule.

15.5. No team may revise, substitute, add to, delete or in any other manner alter its

memoranda after the time limit for their submission. Revised or additional pages submitted to the GS shall be ignored.

### **Article 16. Assessment of the written memoranda**

16.1. Each memoranda will be judged and graded individually by the members of the Memoranda-jury. The Memoranda-jury may also act as a judge in the subsequent rounds.

16.2. The Memoranda-jury will be composed of two to five members selected by the GS.

16.3. The memoranda will be graded on the basis of the depth of the factual and legal analysis, originality of the arguments, quality of the structuring of the argument, thoroughness of research, clarity and style. The jury shall assess and take into account whether arguments are based on facts not found in the case or in the clarifications.

16.4. The memoranda will be graded on 200 points: 100 points for the memoranda on behalf of the applicant and 100 points for the memoranda on behalf of the defendant, according to the criteria as set out in annex B.

16.5. The final score for a memoranda shall be the points awarded by the members of the Memoranda-jury minus any penalty points as set out in Annex C. Possible penalty points are assessed by the GS and subtracted from the total score given by the Memoranda-jury.

16.6. The scores will be kept on official scoring sheets, which the GS will send to the judges together with the memoranda.

16.7. Any objection regarding the written memoranda must be presented to the GS, within the fifteen days following the commencement of the qualifiers. The GS shall settle the objection before the final oral rounds, and the decision will be final. No further objections regarding the written phase will be considered

## **PART III: THE QUALIFIERS**

### **Article 17. Pleading sessions**

For the qualifiers, the teams shall be paired by lot and each team will plead once on behalf of the taxpayer and once on behalf of the tax administration. All registered teams must participate in the qualifiers or it may not go on in the Competition.

### **Article 18. Use of the information and communication technologies**

18.1. The qualifiers will be held entirely by means of the information and communication technologies. Therefore, each pleading session will be held as a teleconference. The participants of the teleconference will be the opposing teams, the juries, and one supervisor designated by the GS.

18.2. Each team will present the oral pleadings at a room designated for that purpose by the university or institution it represents, hence, all team members must be together, even those team members that will not be pleading. Said room must be located within the university or institution and it must have access to the internet.

If, by cause of the pandemic unleashed by Covid-19, the university or institution that is represented by one team is closed or cannot be accessed, such team may plead in a room that is not located within said university or institution. In any case, the designated room must have access to internet.

18.3. In the designated room each team must have at its disposal one desk where the team members will stay during the pleading session. Once the corresponding pleading session has started, no team member may leave the room.

18.4. In the designated room each team must have at its disposal two main cameras (or two devices with incorporated camera) and one spare camera (or device with incorporated camera). The spare camera will be used only if the main cameras have technical problems. The teams may set the main cameras following one of these two options:

a. One camera (that must be on at all times) must be set facing the desk from which the team will present the pleadings, in a manner that assures that the juries will be able to watch and listen all the participants at all times. Therefore, the camera may not zoom-in into one or participant. The other main camera may remain inactivated.

b. One main camera must be set facing only the team members who are speaking at the moment in a manner that assures that the juries will be able to watch and listen the participants who are speaking at all times. The second main camera must be set facing the desk from which the team will present the pleadings, in a manner that assures that the juries will be able watch all the participants at all times. In this option, both main cameras must be on at all times.

18.5. No one may approach the desk or any team member during the pleading session.

18.6. In the designated room each team must have at its disposal two microphones in order to assure that the oral pleadings will be heard by the juries. The microphones may only be turned off upon request of the jury.



18.7. In the designated room each team must have at its disposal one set of speakers in order to assure that the team members will hear the questions from the jury.

18.8. Any violation of the rules set forth in this section will be noted by the jury and it will affect the score of the respective team.

### **Article 19. Qualifiers Induction**

The qualifiers will be preceded by a teleconference of induction in which the rules of the qualifiers will be explained, and the teams will be paired by lot. Once each team has been paired with its opponents, the GS will distribute the written memoranda in accordance with the draw.

All participants must attend the teleconference of induction.

### **Article 20. Subsidiarity rule**

The score and the judging of the qualifiers will follow the provisions of articles 23 and 25.

In what is not foreseen by Section III, provisions of Section IV will apply.

## **PART IV: THE FINAL ORAL PHASE**

### **Article 21. Opening Ceremony**

21.1. The final oral phase will be preceded by an opening ceremony, in which the teams will be paired by lot for the first round and where the teams will receive the memorials of the opposing team.

21.2. In the first phase, each team shall plead on behalf the position determined by lot. The position is going to be determined in the opening ceremony and cannot be changed.

21.3. The GS must explain the structure of the Competition in the Opening Ceremony. As a general rule, there shall be three oral rounds: the qualification rounds, the second round and the final round. This structure could be modified by the GS considering the number of participating teams.

### **Article 22. Oral pleadings**

22.1. The oral arguments shall be presented in English.

22.2. In each pleading session one or two team members shall present the team's oral argument for the applicant or for the defendant. The teams are free in their internal allocation of these roles, but every team member is required to present an oral argument on at least one occasion during the oral round.

22.3. One team member may sit at the bar table as team counsel. The team member acting as counsel need not be the same person in each pleading session. Only the members of the jury and speakers for the teams may talk during the oral argument. There shall be no communication between the bar table and any individual in the audience during the hearing. Counseling will count as pleading time.

22.4. All team members must be present in the sessions in which their team is pleading, but only the persons pleading and the counsel, may be seated behind the bar table.

22.5. In the oral rounds, none of the team members still in the competition, coaches of the team, or persons officially affiliated with the team shall be allowed to attend any other session than the session in which his or her team is pleading.

22.6. For their oral presentation, each team shall have, 45 minutes, including the time necessary to answer the questions of the jury and the time for the rebuttal/ surrebuttal. No more than 10 minutes of this time shall be used for rebuttal/surrebuttal.

22.7. If two team members are pleading, the time shall be divided between the two in such a way that no team member will speak for more than 25 minutes.

22.8. The jury, at its sole discretion, may extend the time limits as described this article with no more than 10 minutes per team in order to allow the speaker to finish his or her argument. Where an extension is granted to one party, the other party shall be granted the same extension of time.

22.9. The scope of the oral phase shall follow the sense of the team's submitted memoranda, even if is possible to introduce new arguments. The scope of the applicant's rebuttal shall be limited to the scope of the defendant's pleadings and the scope of the defendant's surrebuttal shall be limited to the scope of the applicant's rebuttal.

22.10. The jury may disqualify a team or one of its members in case of any flagrant violation of these rules or other behaviour detrimental to the Competition. The jury may also decide to apply a lesser penalty.

22.11. During the pleadings the use of any material or exhibits other than the memoranda and legal documents is not permitted.

22.12. The members of the jury are encouraged to ask questions to the pleading parties.

22.13. Taping and broadcasting of the oral arguments are not allowed. Filming during

the hearings is not allowed, except by the persons engaged by the GS. Photographing during the hearings is allowed insofar it does not perturb the speakers. The jury may instruct the photographers at any time to stop taking pictures.

### **Article 23. Scoring of the oral arguments**

23.1. Each pleading shall be judged individually by a jury composed by, at least, two members. The judges for the oral rounds shall only judge the oral performance of the teams. The judges will have access to the written memoranda beforehand.

23.2. In a pleading session the total score of the team could be a maximum of 400 points. The total First Round Score will be the average of the points obtained on the pleadings.

23.3. The scores shall be kept on official scoring sheets, provided by the GS. It shall be the task of the GS to ensure that all scores are collected, the sums are calculated and the total score of all teams per round must be made public.

### **Article 24. The first round**

Every team admitted to the final oral phase shall plead at least twice, once as applicant and once as defendant. If there should be an odd number of participating teams, or for other reasons, it may be necessary for a team to argue more than one time as taxpayer or tax administration.

The GS shall determine the pleading schedule, that is to say, the day and hour a team shall present its arguments.

### **Article 25. The final**

25.1. The two teams with the highest First Round Score will proceed to the final. If two or more teams have an equal First Round Score, the team with the highest score on the qualifiers shall be ranked higher. If these teams have the same score on the qualifiers, the team with the highest score at the written memoranda will be ranked higher. If the tie persists, the finalist will be chosen by lot.

25.2. Every team admitted to the final shall plead twice, once as applicant and once as defendant.

25.3. The team with the highest Final Score wins the Competition. The Final Score is the total score of the team for its pleading session in the final. In case of a draw, the team with the highest Final Admission Ranking Score wins the Competition. The Final Admission Ranking Score is the average of all the scores obtained by the team from the qualifiers up until the final.

25.4. If the draw persists, the team with the highest score at the written memoranda will be the winner.

25.5. In the event of a final and definitive draw, a toss coin shall decide the winner.

### **Article 26. Objections**

26.1. If any team, in any phase of the final oral phase, has any objection, it must be presented before the jury by the captain of the team. No objection can be presented or settled after the end of each audience. Any irregular situation or breach of the present rules concerning the final oral phase will be remediated if no objection is presented.

26.2. The Jury may consult to the GS, whom shall issue a non-obligatory concept. Once heard by the GS, the Jury will proceed to settle the objection. The decision will not be subject to appeal.

## **PART V: AWARDS**

### **Article 27. Awards**

The following awards are given at the end of the Competition:

1. The award for the winning team.
2. The award for the second best team.
3. A single award for the best individual in the oral rounds
4. A single award for the best individual in the oral rounds on behalf of the applicant.
5. A single award for the best individual in the oral rounds on behalf of the defendant.
6. A single award for the best memorandum on behalf of the defendant.
7. A single award for the best memorandum on behalf of the applicant.
8. All team members will receive a certificate of participation.

## **ANNEX A – Written Memoranda**

1. Every team shall hand two memoranda, one on behalf of the applicant and one on behalf of the defendant. Both memoranda shall be sent by email to [mootcourt@oiti.org](mailto:mootcourt@oiti.org) at the time set in the rules.
2. The memoranda must be sent by e-mail in both PDF and word format.
3. Each memoranda must contain the following parts in this order:
  - I) External cover
  - II) Internal cover
  - III) List of abbreviations
  - IV) Table of content
  - V) Arguments
  - VI) Bibliography
4. The color of the external cover shall be red for the applicant (Taxpayer) and blue for the defendant (Tax Administration). The participating teams may not be identified by name or in any other way on the cover or in the memoranda, except by their designated registration number. This number shall appear clearly in the middle at the bottom on the cover. On the central middle of the cover shall also be indicated whether the memoranda is for the applicant or the defendant. In the upper left corner of the cover shall also appear the name and year of the Competition.
5. The internal cover shall present the same information as the external cover.
6. The memoranda shall be typed on standard international A4 paper (21 x 29¾ centimeters) on one side. The font and size of the text of all parts of the memoranda shall be the same and shall be in Times New Roman 12-point, except for the footnotes that should be 10-point. The text of all parts of the memoranda shall be 1,5 spaced, except for the footnotes that may be single- spaced. Margins must be 2 cm on both sides and 3 cm at the top and the bottom.
7. Each page shall be numbered in Arabic numbers in the middle at the top. The different parts of the memoranda have to be numbered consecutively in capital Roman numbers. Paragraphs shall be numbered in Arabic numbers and references to statements in either one's own memoranda or, in the case of the memoranda for the defendant, to statements in the opponent's memoranda for the applicant shall be to the paragraph number. Finally, also the footnotes have to be numbered consecutively throughout the whole document.
8. The table of contents shall refer to the page numbers.



9. The argument section shall be limited to 8,000 words, bibliographic footnotes not included. Substantive, affirmative legal arguments or legal interpretation of the facts of the Case may only be presented in this section. The words used in footnotes for legal arguments or legal interpretation of the facts will be deemed to be part of the arguments section.

## **ANNEX B - Assessment**

### 1. Assessment of the written memoranda:

The memoranda-jury shall assess a maximum of 100 points to each memoranda (defendant and applicant), which shall be granted according to the following criteria:

Knowledge of facts and depth of factual analysis:	20 points
Knowledge of law and depth of legal analysis:	20 points
Originality of the argument:	20 points
Clarity and well-organized structure of the organization:	20 points
Extent and use of research:	10 points
Grammar and style:	10 points

In case there are a plural number of juries by memoranda the final score will be determined by average of the score assessed.

If the memoranda contain arguments based on facts that are neither found in the case or in the clarifications, the jury shall take into account these aspects in the assessment.

### 2. Assessment of the pleadings

The jury shall assess the pleadings of the applicant and the defendant on a maximum of 400 points per team, which shall be granted according to the following criteria:

Knowledge of law:	80 points
Application of law to facts:	80 points
Ingenuity and ability to answer questions:	80 points
Clarity and structure of the argument:	80 points
Skills of pleading and speaking:	80 points

The final score per round will be determined as the average of the score assessed by the members of the jury.

### ***ANNEX C - Penalty points***

The penalty points shall be awarded by the jury.

The following infractions shall be sanctioned by the following penalty points or by disqualification, subject to the appreciation of the Jury:

1. Delayed submission of the memoranda by e-mail:
  - a. hours late 25 penalty points
  - b. In the event of a later submission the team must be disqualified by the jury.
2. Disclosure of the identity of the team in the memorandum:  
25 penalty points
3. Formal infractions to Annex A:  
Maximum 10 penalty points per infraction
4. Exceeding the maximum number of words (see Annex A):  
A maximum of 15 penalty points considering on the dimension of the infraction.