FISCAL LAW IN THE EU

OBJECTIVES

The main objective of this subject is to have a general overview of international taxation. That means that students should realize of the importance of tax law in: (i) business transactions, in particular, when they are carried out between two companies of different countries, as well as (ii) investments abroad (through subsidiaries or branches).

As a consequence, students should achieve the skills and abilities to determine taxation (and avoid double taxation) on income obtained by a company or individual resident in one country in another country mainly through the analysis of the applicable Convention for the avoidance of double taxation, domestic tax law of the countries involved and, if it is the case, EU law as well as EU case law.

Due to the above, the understanding of concepts such as world wide income, fiscal residence and non-residence, double taxation and methods for the avoidance of double taxation, transfer pricing, permanent establishment, thin capitalization, tax havens, etc. is of vital importance.

I. GENERAL SECTION

1. ***Introduction to taxation:*** Direct and indirect taxes. Structure of each tax. Fiscal jurisdiction (national, regional, local). Tax models in similar countries.

2. ***International taxation:*** Tax sovereignty. International double taxation: economic and legal. Methods to avoid double taxation.

3. ***Sources of international taxation:*** Domestic law. Conventions for the avoidance of double taxation. EU regulations, doctrine and case law.

II. DIRECT TAXATION

A) International conventions for the avoidance of double taxation.

1. ***The OECD Model Convention (I):*** Structure of the Convention. Taxes covered. Tax residence. The concept of permanent establishment.

2. ***The OECD Model Convention (II):*** Classes of income. Methods to avoid double taxation. The principle of non-discrimination. The resolution of conflict: the mutual agreement procedure. Final conclusions.

B) Taxation of non-residents.

1. ***Taxation of non-residents (I):*** Tax residence. Taxable person, representative and liable party. Permanent establishment and types. Taxable income. Accrual. Tax rate. Statutory formalities.

2. ***Taxation of non-residents (II):*** Thin-capitalization. Anti-abuse measures.

C) Taxation of Spanish investments abroad

1. ***Spanish investments abroad (I):*** Tax credits for international double taxation. International conventions for the avoidance of double taxation.

2. ***Spanish investments abroad (II):*** Tax incentives for cross-border activities. Holding companies investing in foreign securities. Anti-abuse measures. Controlled Foreign Corporations (CFC) regulations.

D) International taxation.

1. ***Transfer pricing:*** Description of the problem. Treatment by Spanish regulations and by similar countries. The OECD report on transfer pricing: methods of valuation, criteria and recommendations.

2. ***International tax planning (I):*** Objectives. Basic schemes for planning investments and international operations.

3. ***International tax planning (II):*** Holding and instrumental companies. The use of tax havens: advantages and limitations.

4. ***International tax planning (III):*** International tax planning for individuals.

5. ***International tax planning (IV):*** Anti-abuse measures to avoid tax evasion and fraud. OECD recommendations and comparative law.

III. INDIRECT TAXATION

1. ***Introduction to indirect taxation in the UE:*** Special taxes or excises. The Council Directives establishing the common system of value added tax. VAT in the single market.

2. ***Tax regime applicable to exports:*** The concept of exportation. Tax and customs rules. VAT exemption at exportation: general system, operations assimilated to export supplies and exempt zones/temporary regimes. The regime for export companies: refund of VAT paid.

3. ***Tax regime applicable to imports:*** Customs rules on importation of goods. VAT on imports: taxable base, accrual, taxable and liable person. Temporary regimes (intra-Community transactions, bonded warehouses, completion of goods and temporary allocation).

4. ***Taxation on intra-Community transactions.*** VAT and the 1993 Single Market. Rules applicable to intra-Community acquisitions and deliveries (VAT and special taxes). Formalities (records, tax returns and INTRASTAT).

IV. SUMMARY AND CONCLUSIONS

FISCAL LAW IN THE EU

Ordinary evaluation:

Tests and exam: 70%

Tests: 40%

If any test is not taken, the result of that test would be 0.

Final exam: 60%

It is obligatory to take the final exam in order to obtain an overall result of the course taken. In case the final exam is not taken, the student will get a “No presentado” mark and should take the September exam.

The minimum mark in the final exam in order to take into consideration the remaining points that make up the final result of the subject will be 4. In case this result is not reached, the student should take the September exam.

Project: 20%

Project should be done in order to pass the subject. In case the project is not done, the final result of the subject will be either 4 or the final exam mark, the lower.

Participation: 10%

Extraordinary evaluation:

Tests and exam: 70%

Tests: 40%

The result will be kept.

Final exam: 60%

It is obligatory to take the final exam in order to obtain an overall result of the course taken. In case the September exam is not taken, the student will get a “No presentado” result.

The minimum mark in the final exam in order to take into consideration the remaining points that make up the final result of the subject will be 4. In case this result is not reached, the final result will be exclusively the final exam mark.

Project:	20%

It is obligatory to do the project in order to pass the subject. In case the project was done on time, the result will be kept.

Participation:	10%

The result will be kept.