International and European Tax Law

Degree: Grau en Dret (Law Degree)
Year: 3rd and 4th
Term: 3rd
Number of ECTS credits: 5
Total study hours: 125 hours
Language: English

1. Presentation

In a globalized world, in which economic transactions are becoming increasingly international, the objective of this subject is to provide students with the foundations of international and European tax law. This will facilitate the understanding of current issues such as where and how should income from international transactions be taxed, the problems of double taxation and tax avoidance by multinational corporations or the latest initiatives against tax havens. Which criteria can use States to tax individuals or corporations doing business in different countries? Why do corporations such as Google or Apple pay so low taxes in many of the countries in which they operate? Are Andorra or Switzerland tax havens? How does a double tax treaty work? Which measures could prevent tax fraud? How does European Union law influence the national tax systems? How can the European Court of Justice protect us against discriminatory taxes? These are some of the questions that this subject will try to answer.

This elective subject can be studied during the third term of the third or fourth years of the Law Degree. Previous knowledge of tax law is not required since the subject has an introductory nature and all the necessary elements to follow the classes will be provided to the students. Moreover, this subject is especially advisable for foreign students making an exchange at UPF or participating in study programs for foreign students given that it is based on an international, European and comparative approach. Therefore, previous knowledge of Spanish law is not necessary and the subject is also suitable for students who are not familiar with the legal systems of civil law countries (such as students coming from the United States and other common law countries). Reference to national legislation will follow a comparative approach, taking into account the case of Spain but also the situation in those countries which traditionally have been more influential in the field of international taxation, such as the United States.

This subject is aimed at students interested in the role of taxation in international business transactions, in current topics such as the fight against tax havens or in understanding how taxes are coordinated within the European Union and in comparing this, for instance, with the situation in the United States. The subject will be useful for students willing to continue their law studies, especially if they want to focus on taxation in the future, as well as for those willing to start a career not only in taxation but also advising corporations and individuals on their international operations, or who may be interested in starting their own business or
working for national or international public bodies dealing with tax matters. Beyond the legal aspects, this subject can also be useful for students interested in the economic and political dimension of international taxation.

2. Syllabus

**Topic 1. Introduction to the main issues of international taxation and to its legal sources**
Main problems of international taxation: double taxation and tax avoidance. Sources of the regulation: treaties, European Union Law, soft law and domestic legislation.

**Topic 2. Criteria for the international distribution of the right to tax in the field of direct taxes on income. The problem of double taxation and the measures for its prevention**
Taxation of worldwide income in the country of residence. Taxation of income of non-residents in the country of source. The concept of permanent establishment, its relevance and the impact of the digital economy. Concept and causes of double taxation. Introduction to the unilateral, bilateral and multilateral measures for the elimination of double taxation.

**Topic 3. Model conventions and double tax treaties**

**Topic 4. Tax avoidance. International tax planning and anti-avoidance measures.**
Introduction to international tax planning. Main structures. General and particular anti-avoidance measures. BEPS. Critical issues: transfer pricing, thin capitalization, treaty shopping.

**Topic 5. Tax Evasion. Tax havens and exchange of information**

**Topic 6. General European Union Law and Taxation**

**Topic 7. EU Law and direct taxation of income**
Harmonisation policy in the field of direct taxes. Main measures of positive integration: the parent-subsidiary directive, the tax merger directive, transfer pricing and the arbitration convention, the interest and royalty directive, the savings interest directive. Negative integration of direct taxation: role of the ECJ Case Law.

**Topic 8. EU Law and indirect taxation**
The Value Added Tax and its application to international transactions. Measures to prevent international VAT fraud. Brief comparison with the taxes on consumption of other countries, such as the United States.
3. Competences and skills

- Capacity to analyse and synthesise the basic principles and concepts of international and European tax law.
- Self-organization in the preparation of the different learning activities. Autonomous learning.
- Capacity to understand and relate the issues on international tax matters which appear in the media.
- Capacity to communicate in English, in a written and oral way, using the right legal terminology. Comprehension of tax treaties and EU law on tax matters in English.
- Capacity to solve problems related with real cases of international taxation.
- Capacity to argue and debate.
- Ethical commitment.
- Capacity to work in small teams and to interact with others during the practical sessions.
- Capacity to take initiatives.
- Creativity and capacity to relate concepts.
- Capacity to use the different legal sources.
- Capacity to draft documents on international tax matters.
- Capacity to identify the driving forces behind the evolution of international tax law.

4. Evaluation

The general system for the evaluation of this subject is a continuous assessment.

This continuous assessment is based on a series of activities which will have to be prepared in advance to the classes. The evaluation will consider not only the adequacy of the solutions proposed, but also the quality of the arguments, the capacity to understand the broader context of the cases and the ability to participate in the debates with the other students during the sessions centred on the discussion of the activities.

Those students who may not be able to follow the continuous assessment system for justified reasons or because of their participation in mobility programmes will be evaluated based on a final exam during the month of June. In case of failing, students have the possibility of re-taking the exam during the month of July.

The details are provided in the following table:
4.1. Evaluation system

<table>
<thead>
<tr>
<th>Evaluation activity</th>
<th>Evaluation criteria</th>
<th>% final grade</th>
<th>Retake exam</th>
<th>Evaluated competences</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 Practical cases</td>
<td>From 0 to 10. 5 points are necessary to pass the exam.</td>
<td>100%</td>
<td>Students failing the continuous assessment are offered a retake exam in July. The exam will be 100% of the final grade.</td>
<td>All</td>
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</table>

<table>
<thead>
<tr>
<th>Evaluation system for students participating in mobility programmes or unable to follow the continuous assessment for justified reasons</th>
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<tbody>
<tr>
<td>Evaluation activity</td>
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<tr>
<td>Written exam.</td>
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</table>

4.2. Conditions for the retake examination

Students who have failed the subject based on the continuous assessment of the general evaluation system will have a retake exam during the month of July which will be worth 100% of the final mark. This possibility is only offered to students who had participated at least in 50% of the continuous evaluation activities.

5. Methodology

The development of the subject is based on a combination of theoretical and practical sessions. The theoretical classes will introduce the main issues of each topic and students will have the opportunity to discuss any doubts that they may have from the materials which they will have received in advance. The practical classes concentrate on the discussion of several cases, which will be related with real situations and which students will have solved previously. During these seminars, the main issues will be debated and particular attention will be paid to the legal reasoning used to justify the different positions.
6. Calendar and activities

<table>
<thead>
<tr>
<th>Session</th>
<th>Week / day</th>
<th>Time</th>
<th>Room</th>
<th>Activity</th>
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<tbody>
<tr>
<td>1</td>
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<td>Topic 1. Introduction to the main issues of international taxation and to its legal sources.</td>
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<td>Topic 2. Criteria for the international distribution of the right to tax in the field of direct taxes on income.</td>
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<td>Topic 2. The problem of double taxation and the measures for its prevention.</td>
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<td>4</td>
<td>-</td>
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<td>-</td>
<td>Activity 1. Topics 1 and 2.</td>
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<tr>
<td>5</td>
<td>-</td>
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<td>Topic 3. The model conventions for the prevention of double taxation.</td>
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<td>6</td>
<td>-</td>
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<td>Activity 2. Topic 3. Model conventions.</td>
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<td>7</td>
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<td>-</td>
<td>Topic 3. Double taxation conventions: general issues and application.</td>
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<td>8</td>
<td>-</td>
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<td>Activity 3. Topic 3. Tax treaties</td>
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<td>11</td>
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<td>Activity 4. Topic 4.</td>
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<td>Activity 5. Topic 5.</td>
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<td>14</td>
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<td>Topic 7. EU Law and direct taxation of income.</td>
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<td>15</td>
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<td>Activity 5. Topic 6 and 7.</td>
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<td>16</td>
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<td>Topic 8. EU Law and indirect taxation.</td>
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<td>17</td>
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<td>Activity 6. Topic 8.</td>
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7. Bibliography

Basic references


**Specific readings**

Reading materials for each particular topic will be made available at the Aula Global of the subject, if necessary.