

European Tax Law

Professor Kofler

Spring 2018 — Course Overview

Course number: 7931.

Number of credits: 2.

Course contents: This course covers the core elements of European Union (EU) direct tax law and policy, i.e., primary and secondary Union legislation and the impact on Member States' domestic tax laws. Following a detailed introduction to the legal and political structure of the European Union and its impact on direct taxation, we will cover

- the non-discrimination rules of the four fundamental freedoms of the Treaty on the Functioning of the European Union (TFEU), i.e., the free movement of workers, the freedom of establishment, the freedom to provide services, and the free movement of capital, and the EU Court's landmark decisions in that area;
- the EU state aid rules that prohibit Member States from granting selective (tax) benefits to enterprises (we will also discuss the current decisions of the EU Commission with regard to potential state aid granted to Apple, Amazon, Starbucks, Fiat, and McDonald's and the US response to those proceedings);
- the direct tax directives, e.g., in the area of anti-tax avoidance, cross-border profit distributions and payments of interest and royalties, dispute resolution, and exchange of information, and their impact on tax planning and EU group structures;
- the EU Charter of Fundamental Rights and its impact on taxation; and
- recent EU proposals and initiatives, e.g., the work on the Common (Consolidated) Corporate Tax Base and the EU's external strategy (e.g., with regard to the EU "black list" of uncooperative third countries).

Learning outcomes: At the end of this course, students will be able to demonstrate a deep comprehension of EU law and its impact on direct taxation, apply EU rules to concrete cross-border tax issues, identify risks under EU state aid provisions, and understand sources, impact, and trends in EU tax policy.

Course materials: The course will be accompanied by a detailed set of slides that should lead you through all the materials covered. In addition, you will find (hyperlinked) reading assignments and recommendations in the detailed schedule below. The chapters in the reading assignments refer to M. Lang, P. Pistone, J. Schuch and C. Staringer (eds.), *Introduction to European Tax Law on Direct Taxation*, 4th edn., Linde Vienna 2016. However, there are a number of other recent textbooks available on EU direct tax law (e.g., M. Helminen, *EU Tax Law – Direct Taxation 2017*, IBFD Amsterdam 2017), and you are free to use any of them instead.

Workload: Students should expect to spend, on average, approximately two hours preparing for every hour of class.

Attendance: Regular and punctual attendance at classes is required. I do take attendance by recording it on the seating chart. Any student with more than two unexcused absences will be excluded from the examination. Please e-mail me at georg.kofler@gmail.com to request an excused absence.

Statement on accommodations: Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Dean Rachel Inman when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

Academic conduct: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

#	Date	Day, Time, Room	Topics
1	Feb. 7	Wednesday, 5-7 p.m. 360 Holland Hall	<p>Introduction</p> <p>Please read Chapters 1 and 2 in your textbook on the “The Sources of EU Law Relevant for Direct Taxation” and on “The Coordination of Tax Policies in the EU”</p> <p>The Treaty on the Functioning on the European Union (TFEU) can be found here.</p>
2	Feb. 8	Thursday, 5-7 p.m. 360 Holland Hall	<p>Fundamental Freedoms</p> <p>Please read Chapter 3 in your textbook on the “The Relevance of the Fundamental Freedoms for Direct Taxation”</p>
3	Feb. 14	Wednesday, 5-7 p.m. 360 Holland Hall	<p>Please skim the Court’s decisions on</p>
4	Feb. 15	Thursday, 5-7 p.m. 360 Holland Hall	<ul style="list-style-type: none"> ▪ Personal and family benefits: Schumacker and X ▪ Business expenses: Gerritse and Scorpio ▪ Permanent establishments: Avoir Fiscal and Saint-Gobain ▪ Cross-border dividends: Haribo and Salinen and Miljoen ▪ Foreign losses: Marks & Spencer and Timac Agro ▪ Exit taxation: N and National Grid Indus ▪ Horizontal discrimination: D and Sopora ▪ Double taxation: Kerckhaert-Morres
5	Feb. 21	Wednesday, 5-7 p.m. 360 Holland Hall	<p>EU State Aid</p> <p>Please read Chapter 4 in your textbook on the “The State Aid Provisions of the TFEU in Tax Matters”</p>
6	Feb. 22	Thursday, 5-7 p.m. 360 Holland Hall	<p>Please read the Court’s decisions in World Duty Free and Aer Lingus and the General Court’s decision in GFKL Financial Services</p>
7	Feb. 28	Wednesday, 5-7 p.m. 360 Holland Hall	<p>EU Charter of Fundamental Rights</p> <p>Please skim through the Charter, available here.</p> <p>Please read the Court’s decision in Berlioz.</p>
8	Mar. 1	Thursday, 5-7 p.m. 360 Holland Hall	<p>Anti-Tax-Avoidance Directive (ATAD)</p> <p>Please read the ATAD, available here (ATAD 1) and here (ATAD 2)</p>
9	Mar. 14	Wednesday, 5-7 p.m. 360 Holland Hall	<p>Parent-Subsidiary-Directive</p> <p>Please read Chapter 5 in your textbook on “The Parent-Subsidiary Directive”</p> <p>Also skim through the Directive, available here.</p>
10	Mar. 15	Thursday, 5-7 p.m. 360 Holland Hall	<p>Interest-Royalties-Directive</p> <p>Please read Chapter 7 in your textbook on “The Interest and Royalty Directive”</p> <p>Also skim through the Directive, available here.</p> <p>Please read the Court’s decision in Egiom.</p>
11	Mar. 21	Wednesday, 5-7 p.m. 360 Holland Hall	<p>Dispute Resolution</p> <p>Please read Chapter 9 “The EU Arbitration Convention” and skim through the Convention, available here.</p> <p>Please read the Directive on tax dispute resolution mechanisms in the European Union, available here.</p>
12	Mar. 22	Thursday, 5-7 p.m. 360 Holland Hall	<p>Recent EU Proposals and Developments</p> <p>Please skim through the Presidency’s BEPS Roadmap, available here.</p>