**European Law 1 credit**

**and**

**European TAX Law 1 credits**

**Spring 2019 (course #7931)**

**DRAFT Course syllabus**

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**Office Hours:** I will normally be in office when not travelling. Schedule an appointment in class or via email.

1. **Course Materials:** There will be no required text book. Materials will primarily consist of selected articles, excerpts from EU primary law (treaties), EU secondary law (primarily directives) case law from the Court of Justice of the European Union, communications and other materials issues by the European Commission.All materials are publically available and for free. More information on the materials can be found under the specific classes below.
2. **Topics:** This syllabus includes two separate 1 credit courses, one focused on European law, and the other on European taxation. This course will encompass two combined courses, one course on European law (1 credit) and one on European tax law (1 credit). The course on European law will primarily focus on a general overview of EU law and on the free movement of individuals, services and capital, and on freedom of establishment, based on the general provisions on that subject in the Treaty on the Functioning of the European Union (TFEU), and using case law from the Court of Justice of the European Union (CJEU) where national tax provisions have been tested towards the TFEU.

The course on European tax law starts together with the course on European law and share the first seven two-hour sessions, and then continues with seven further two-hour sessions on specific direct tax issues, primarily relevant for corporate taxation and aimed at providing insights useful for non-European investors.

**C. Grade:** Your grade will be based as follows:

|  |  |
| --- | --- |
| **Letter Grade** | **Point Equivalent** |
| **A (Excellent)** | **4.0** |
| **A-** | **3.67** |
| **B+** | **3.33** |
| **B** | **3.0** |
| **B-** | **2.67** |
| **C+** | **2.33** |
| **C (Satisfactory)** | **2.0** |
| **C-** | **1.67** |
| **D+** | **1.33** |
| **D (Poor)** | **1.0** |
| **D-** | **0.67** |
| **E (Failure)** |  |

1. **Reading Assignments.** See under each class below. For sessions 3 and onwards, the assignments will be determined in detail after we have met at first session.

The research and reading you are doing is expected to take you approximately 5 hours each week.

**E. Objectives of the courses**

*Objectives of the course on European law:*

The European Union currently consist of 28 Member States (UK soon leaving), held together by a legal framework providing, among many other things, fundamental rights on free movement and non-discrimination, aimed at ensuring i.a. an internal market without borders. One of the goals of the course is to provide a basic understanding of the tensions between on one hand the objectives of the EU and on the other hand Member States sovereignty, using examples from tax law on free movement and discrimination. Students will also get a basic understanding of the process of harmonization of (tax) laws among the member states through directives (positive integration). Students will also understand how the institutions of the European Union (the European Council, the Parliament, the European Commission and Court of Justice of the European Union) work and interact. After providing an introduction the course entails, among other things, the importance of EU primary law, i.e. the Treaty on the Functioning of the European Union (TFEU) and the Treaty on the European Union (TEU), for example the principle of non-discrimination and the prohibition on restrictions to cross-border mobility as regards goods, services, persons and capital, and the right to establish a business in another member state. This is sometimes referred to as negative integration. The impact of the TFEU with respect to non-member states (e.g. USA) is also covered.

*Objectives of the course on European tax law*

The European Union consists of currently 28 Member States (UK soon leaving), held together by a legal framework providing, among many other things, fundamental rights on free movement and non-discrimination, aimed at ensuring i.a. an internal market without borders. One of the goals of the course is to provide a basic understanding of the tensions between on one hand the objectives of the EU and on the other hand Member States sovereignty, using examples from tax law on free movement and discrimination. Students will also get a basic understanding of the process of harmonization of (tax) laws among the member states through directives (positive integration). Students will also understand how the institutions of the European Union (the European Council, the Parliament, the European Commission and Court of Justice of the European Union) work and interact. After providing an introduction the course entails, among other things, the importance of EU primary law, i.e. the Treaty on the Functioning of the European Union (TFEU) and the Treaty on the European Union (TEU), for example the principle of non-discrimination and the prohibition on restrictions to cross-border mobility as regards goods, services, persons and capital, and the right to establish a business in another member state. This is sometimes referred to as negative integration. The impact of the TFEU with respect to non-member states (e.g. USA) is also covered.

The second part of the course will primarily be devoted to EU and business taxation. The impact of the European Union on Member States domestic tax law lends itself nicely to include also comparative aspects of primarily corporate tax law. Assignments will therefore include tasks to compare EU corporate tax law with domestic law of the countries of the participating students, e.g. on group taxation rules, reorganizations and profit repatriation. Finally, the ongoing policy considerations on “international aggressive tax planning”, BEPS, and its impact on both legislation and policy discussions within EU will be discussed. Among those issues are harmful tax competition (expressed in codes of conduct), anti-avoidance measures, such as the Anti-Tax Avoidance Directive, the Directive on Double Taxation Dispute Resolution Mechanisms, and future developments of EU tax, e.g. the Common Consolidated Corporate Tax Base. Some understanding of how the value added tax works will be provided.

Students are through the course invited to make comparisons with the US federal and state tax systems, with tax laws of other countries, as well as with relevant provisions in double tax treaties, as they are expressed in the OECD Model Convention or the UN Model.

**F. Learning Outcomes**:

Students will after the course in European law understand the basic division of powers within the European Union, how legislative acts are enacted and implemented, the function of different EU institutions, how positive and negative integration is achieved, and the function of the internal market including the four freedoms.

Students taking European tax law will in addition have good knowledge of how direct taxes work within the European, focusing on corporate tax aspects and when possible with the viewpoint of an investor from outside the EU.

**University Policy on Accommodating Students with Disabilities:**

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 Office of Student Affairs 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.

University Policy on Academic Misconduct:

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.

\*\*Netiquette: Communication Courtesy: All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. [Describe what is expected and what will occur as a result of improper behavior] http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf

Getting Help:

For issues with technical difficulties for E-learning in Sakai, please contact the UF Help Desk at:

● Learning-support@ufl.edu

● (352) 392-HELP - select option 2

● https://lss.at.ufl.edu/help.shtml

\*\* Any requests for make-ups due to technical issues MUST be accompanied by the ticket number received from LSS when the problem was reported to them. The ticket number will document the time and date of the problem. You MUST e-mail your instructor within 24 hours of the technical difficulty if you wish to request a make-up.

Other resources are available at http://www.distance.ufl.edu/getting-help for:

• Counseling and Wellness resources

• Disability resources

• Resources for handling student concerns and complaints

• Library Help Desk support

Should you have any complaints with your experience in this course please visit http://www.distance.ufl.edu/student-complaints to submit a complaint.

Class Preparation/Workload:

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

**Syllabus European Law (1 credit) and European Tax Law (first credit)**

**Thursdays 13.00 – 14.40**

*Session 1*

Presentation of course and of course requirements. Overview of the European Union, the main institutions, legislative acts etc.

This session will primarily take the form of a lecture.

Assignment: For your reference, you can read about the European Union in general at the following websites (other do exist). Focus on developments after 1990, on the functions of the Commission, the Council, the Parliament and the European Commission on the legislative acts.

<http://europa.eu/abc/history/index_en.htm>

<https://europa.eu/european-union/index_en> EU official website, click e.g. on EU law.

<http://en.wikipedia.org/wiki/European_Union>

Also, read:

a) Klaus-Dieter Borchardt: The ABC of EU Law, edition December 2016. For this introduction, it would be fine if you could read pages 11-18, 29-34, 43-68, 75-82, 89-92, 95 (European Economic Area), 98-105, 126-129 (on article 267 TFEU). Available for free at: <http://bookshop.europa.eu/en/the-abc-of-european-union-law-pbOA8107147/_en.pdf>

b) The European Union is primarily governed by the Treaty on European Union, TEU, and the Treaty on the Functioning of the European Union, TFEU. I have attached all treaties as found in a consolidated version at the EU website. However, this document is very large and we will only have use for some of the articles. There is no point in printing the entire document. Read: Articles 1-5, 9, 13, 19, 47 of the TEU and Articles 26, 251, 252, 258, 259,263, 267, 288 of the TFEU.

Treaty of the European Union (TEU) and the Treaty of the Functioning of the European Union can be found at:

<http://eur-lex.europa.eu/collection/eu-law/treaties.html>

*Session 2*

With focus on taxes, this session will focus on the legislative acts of the EU. Positive integration (through directives) and negative integration (through treaty provisions). Overview of the four freedoms, and on discrimination and restrictions. Discussion on the methodology of the Court of Justice of the European Union in balancing the freedoms versus the interests of the Member States (rule of reason). Overview of other tax relevant provisions.

Read without going too much into all details, the following articles of the TFEU. Articles 18, 19.1, 20, 26, 21, 28-32, 34-36, 45, 49, 52, 54-57, 63-66, 107, 110-114.1-2.

For a general overview go to <http://europa.eu/pol/tax/index_en.htm>

This session will also primarily take the form of a lecture.

*Session 3*

This session is devoted to the free movement of individuals, for instance to work in another Member State without being subject to restrictions or discriminatory treatment. We will also deal with the freedom to provide cross-border services.

*Session 4*

Free movement of capital, including the treatment of capital movements to non-Member States.

*Session 5*

Right to establish a business in another Member States.

*Session 6*

More on freedom of establishment.

*Session 7*

State aid and other issues.

**Examination:** Open book, 2 hour written exam

**Syllabus European tax law**

Session 1 – 7: See above on EU law

*Session 8*

Tax consolidation regimes. Cross-border losses. Common consolidated corporate tax base (CCCTB)

*Session 9*

Profit repatriation – dividends/interest/royalties/savings directives.

*Session 10*

Reorganizations. Tax merger directive.

*Session 11*

Tax avoidance, Base erosion and profit shifting (BEPS) and the EU. Anti-Tax Avoidance Directive.

*Session 12*

Exit taxation

*Session 13*

Transfer pricing

*Session 14*

Miscellaneous issues.

**Examination:** Open book, two hour written exam