**European Taxation (Law 7931)**

Tuesdays 3.15 p.m. -5.15 p.m./Thursdays 1.15 p.m. – 3.15 p.m. Room 359

Spring 2022 Syllabus

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(1) Tuesdays 10-12 a.m., meetings will be in my office. Students that would like to meet me over zoom should email to set up appointment.

(2) By appointment.

**This syllabus may need to be adjusted to take into account changing circumstances; please refer to https://coronavirus.ufl.edu/ for the latest on UF’s ongoing response to the pandemic. Please be sure to check your email and the class Canvas site regularly.**

**Course Description and Preparation Time:**

The European Union consists of 27 Member States 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 main part of the course will 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, reorganisations 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, following the proposals for a global minimum tax and how it may be implemented in the EU.

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.

You should spend at least 2 full hours preparing for each class hour. This is the minimum preparation time needed for you to be able to follow class discussion.

**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.

**Learning Outcomes**:

Students will 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 of EU law into national law is achieved, and the function of the internal market including the four freedoms.

Students will understand how income taxes are levied as influenced by EU law, focusing on comparative corporate tax aspects and whenever possible with the viewpoint of an investor from outside the EU.

**Evaluation:** The grade will consist of 20 percent participation and attendance, and

80 percent of the final Exam

**Participation & Attendance Expectations**

You are required to attend at the times listed above. Unless you have been accepted into the pilot, part-time program, you are required to attend in person. With advance permission, in-person students may be permitted to attend through Zoom; permission will only be granted in situations, described below, that would warrant an excused absence after completion of a makeup assignment. You are expected to be prepared to respond to questions about the assigned problems and reading.

Attendance will be taken each class. Unless you are in the pilot, part-time program (or have permission for a particular day), do not log in to the Zoom feed for the classroom during class time; this will ensure that I am able to see who is in attendance remotely and will help limit technology issues. Zoom recordings of class will be made available to all students.

Repeated lack of preparedness or participation, including not responding on when asked a direct question, may be counted as unexcused absences. Repeated class disruption (e.g., excessive noise, texting, personal internet use, leaving early, or arriving late) may be counted as an unexcused absence. You will be notified if you accrue an unexcused absence on account of lack of preparedness and/or disruptive behavior.

Absences taken for observance of religious holidays will be excused with completion of a makeup assignment. If you are planning to miss class for a religious holiday, please let me know. If you are absent because of a special situation (sickness, family emergency, job interview, etc.), the absence will be excused (1) after you have provided any documentation of the situation requested by Student Affairs or by me (your privacy will be respected—e.g., a note from a doctor that your absence should be excused may be requested, but it will not be required that the underlying issue be specified in the note), and (2) you have completed a make-up assignment. The makeup assignment will generally consist of watching the Zoom recording of the missed class and turning in notes and questions from that viewing.

If you have more than three unexcused absences, your participation grade will be 0, you may be barred from taking exams, and you will be barred from participating in the retesting process (see below).

**Exam:** Will be open book, 2 hour written exam.

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

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| --- | --- |
| **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)** |  |

The law school grading policy is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. **Note that the mandatory mean does not apply to LL.M. students.**

**Notice of Recording and Conduct Rules Relating to Photos and Recordings**

Students are allowed to record video or audio of “class lectures.” The entirety of our class sessions will also be audio visually recorded using Zoom and/or MediaSite, and I will provide access to these recordings through Canvas. However, the purposes for which student recordings and Zoom/MediaSite recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture **does not** include student presentations, academic exercises involving solely student participation, assessments (quizzes, tests, exams), private conversations between students in the class, or between a student and the faculty or lecturer during a class session. Please note that the Zoom and/or MediaSite recordings will record conversations with students in the class as those will record the entirety of a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

**Additional Expectations: Pilot Program Remote Students**

Please ensure your Zoom name matches your preferred name and with your last name also shown. You are expected to turn on video of yourself while attendance is taken and when responding to or asking questions. You do not need to have video on when taking notes and listening to the class, but you need to be ready to respond to questions, whether directed to you individually or in the form of class polls. You are expected to keep your microphone on mute unless you have been called on to ask or answer a question. Please do not use the chat function to ask questions directed to me during class; it will not be monitored by me, and students attending in person will not be able to see it.If you are trying to ask a question, but your “virtual hand” is not being seen by me, please contact the TA. If you have a technical problem during the class, please contact UF IT (<https://www.law.ufl.edu/technology-services>).

**Accommodation and Disability Recourse Center**

Students requesting classroom and/or testing accommodations must first register with the Office of Disability Resources. The UF Disability Resource Center (<https://disability.ufl.edu/>) will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. Student Affairs will then communicate with me as needed to assure the accommodation is provided.

**Honor Code and Other Polices:**

Students are required to follow the Honor Code. To review its requirements, see <http://www.law.ufl.edu/student-affairs/additional-information/honor-code-and-committee>. Students who fail to follow UF safety protocols or the prohibition on circulating or posting class material will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. **Complete student anonymity is preserved during and after the evaluation process.** Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”

**Tentative syllabus for European taxation (**subject tochanges after first session **)**

Assignments for each session will be posted on Canvas.

Session 1

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

Session 2

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.

Session 3

The right to provides cross-border services.

Session 4

Free movement of capital, including the treatment of capital movements to non-Member States. Economic double taxation of corporations.

Session 5

Right to establish a business in another Member States.

Session 6

Consolidation regimes – cross-border losses

Session 7

Profit repatriation – dividends/interest/royalties

Session 8-9

Reorganizations.

Session 10

Tax avoidance, BEPS and the EU

Session 11

Exit taxation

Session 12

Wrap up session