

# TAXATION I

**Bachelor of Laws LLB [2504110] SEP-2023 T1-NLL.3.M.A**

Area Tax Law and Economic Regulation

Number of sessions: 30

Academic year: 23-24

Degree course: THIRD

Number of credits: 6.0

Semester: 1<sup>o</sup>

Category: COMPULSORY

Language: English

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Professor Leis Mayán is a Lawyer and has a bachelor's Degree from the University of Santiago de Compostela and received his Master's in Corporate Legal Advice from IE LAW SCHOOL in Madrid. At this time, he is the Managing Partner of GV LEGAL CONTROL, a prestigious consulting firm in Madrid. He teaches Corporate Tax in PSAF and LLM (IE Law School), and Taxation in MIM (IE Business School) as well as in different bachelor's degrees at IE University.

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## SUBJECT DESCRIPTION

The subject of the Course is the illustration of a standard tax system's architecture by means of a comparative and case-based approach. The Course is divided into three parts:

- Part I will discuss the functions of taxing power and tax law, the concept of tax, the main types of taxes and the main trends in domestic tax policy.
- Part II will discuss the main features of income taxation.
- Part III will discuss the main features and mechanisms of functioning of consumption taxes (i.e. VAT and sales taxes) and other taxes currently implemented around the world.

## LEARNING OBJECTIVES

- Acquiring an in-depth knowledge of the architecture, the rationale and the functioning of the main taxes of which a modern tax system is composed
- Becoming able to understand and possibly identify the tax issues underlying a certain real life or business situation.
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- Developing and understanding of the main functions of the sovereign taxing power and of the constitutional and institutional constraints to it.

The main objective of the Course is to provide the students with an in-depth knowledge of the architecture, the rationale and the functioning of the main taxes of which a modern tax system is composed.

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## TEACHING METHODOLOGY

The course adopts a comparative law methodology, from a functional perspective, whereby legal rules are compared from their application to similar factual problems.

Most teaching sessions will be characterized by a Socratic and case-based approach. Therefore, participation of students will be a key aspect of the course. The Professor will lead their learning process through presentations and lectures, but students are expected to show an active attitude and demonstrate their achievements in class through their interventions. Students will be involved in collaborative and competitive activities in order to obtain the maximum results. Answering questions and questioning will be also part of the methodology.

To adequately attend class, it is crucial to read the materials listed in the syllabus beforehand. Group presentations will be focused on the examination of case law or policy papers related to the legal norms or tax issues discussed, at a theoretical level, during the previous sessions

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

<b>Learning Activity</b>	<b>Weighting</b>	<b>Estimated time a student should dedicate to prepare for and participate in</b>
Lectures	30.0 %	45.0 hours
Discussions	13.33 %	20.0 hours
Exercises in class, Asynchronous sessions, Field Work	13.33 %	20.0 hours
Group work	10.0 %	15.0 hours
Individual studying	33.33 %	50.0 hours
<b>TOTAL</b>	<b>100.0 %</b>	<b>150.0 hours</b>

## **PROGRAM**

### **SESSION 1 (LIVE IN-PERSON)**

#### **PART I - FUNDAMENTALS OF TAXATION**

##### **Introduction to the Course**

- Timetable, Objectives, and Methodology of the Course
- Rules of the game
- Materials (manual and other references)
- What is "tax"?
- Sources of tax law

*Book Chapters: "Tax and Taxes", in V. Thuronyi, K. Brooks, B. Kolozs, Comparative Tax Law, Wolters Kluwer (2016), pages 39-50 (ced)*

### **SESSION 2 (LIVE IN-PERSON)**

#### **PART I - FUNDAMENTALS OF TAXATION**

##### **Tax sovereignty's functions**

- The revenue-raising function
- The redistributive function
- The regulatory function

*Article: R. Avi-Yonah, The Three Goals of Taxation (Tax L. Rev. 60, no. 1 (2006): 1-28 (ced))*

### **SESSION 3 (LIVE IN-PERSON)**

#### **PART I - FUNDAMENTALS OF TAXATION**

##### **The taxing power: holders and exercise**

- The holders of taxing power
- The exercise of taxing power

*Book Chapters: "Tax Administration and Procedures", in V. Thuronyi, K. Brooks, B. Kolozs, Comparative Tax Law, Wolters Kluwer (2016), pages 183-203 (ced)*

### **SESSION 4 (LIVE IN-PERSON)**

#### **PART I - FUNDAMENTALS OF TAXATION**

##### **Group presentations**

*Other / Complementary Documentation: Practical Case: Derouin case*

*Other / Complementary Documentation: Practical Case: Niemeijer case*

*Other / Complementary Documentation: Practical Case: de Ruyter case*

### **SESSION 5 (LIVE IN-PERSON)**

#### **PART I - FUNDAMENTALS OF TAXATION**

##### **Group presentations**

*Other / Complementary Documentation: Practical Case: Sebelius case (Pages 1-9, 11-15, and 31-*

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*Article: Combating Global Climate Change: Why a Carbon Tax is a Better Response to Global Warming than Cap and Trade (Stan. Envtl. L. J. 28, no. 1 (2009): 3-50 (ced))*

## **SESSION 6 (LIVE IN-PERSON)**

### **PART I - FUNDAMENTALS OF TAXATION**

#### **Institutional constraints and general principles of tax policy**

- Constitutional limitations
- Constraints under supranational and international law (EU, WTO and NAFTA, tax treaty law)
- Analysis of case law

*Book Chapters: "The Legal Context", par. 4.3 and 4.4, in V. Thuronyi, K. Brooks, B. Kolozs, Comparative Tax Law, Wolters Kluwer (2016), pages 54-93 (ced)*

## **SESSION 7 (LIVE IN-PERSON)**

### **PART I - FUNDAMENTALS OF TAXATION**

#### **Group presentations**

*Other / Complementary Documentation: Practical Case: Italy's Robin Hood case*

*Other / Complementary Documentation: Practical Case: City of Konstanz's Secondary residence tax case*

## **SESSION 8 (LIVE IN-PERSON)**

### **PART I - FUNDAMENTALS OF TAXATION**

#### **Group presentations**

*Other / Complementary Documentation: Practical Case: Huitson case*

## **SESSION 9 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Basic choices for income taxation**

- The concept of "income" and "source" of income
- Global versus schedular approaches
- Current tax systems

*Book Chapters: Comparative Income Taxation: A Structural Analysis, Part Two - "Basic Income Taxation", Subpart A. "Global vs. Schedular Design of Income Tax" (See Bibliography)*

## **SESSION 10 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

Description: ?

Current individual income tax systems

Categories of income

Determination of the taxable base and due tax

*Book Chapters: Comparative Income Taxation: A Structural Analysis, Part Two - "Basic Income Taxation", Subpart A. "Global vs. Schedular Design of Income Tax" (See Bibliography)*

## **SESSION 11 (LIVE IN-PERSON)**

Description: **Mid-term exam**

## **SESSION 12 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Special items of income**

- Employee fringe benefits
- Employer provided pension benefits
- Deemed (imputed) income from owner occupied housing
- Gifts
- Prizes and Awards
- Scholarships and Grants
- Cancellation of Indebtedness
- Windfalls
- Subsidies

*Book Chapters: Course's Manual: Part Two - Basic Income Taxation, Subpart B: Inclusion in the Tax Base, and paragraphs 1-10 (pages 199-232 of 3rd edition, 2010) (See Bibliography)*

## **SESSION 13 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Special items of income**

- Employee fringe benefits
- Employer provided pension benefits
- Deemed (imputed) income from owner occupied housing
- Gifts
- Prizes and Awards
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- Cancellation of Indebtedness
- Windfalls
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*Book Chapters: Course's Manual: Part Two - Basic Income Taxation, Subpart B: Inclusion in the Tax Base, and paragraphs 1-10 (pages 199-232 of 3rd edition, 2010) (See Bibliography)*

## **SESSION 14 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Group presentations**

*Other / Complementary Documentation: Aken case*  
*Other / Complementary Documentation: Zobory case*  
*Other / Complementary Documentation: Wilcox case*  
*Other / Complementary Documentation: James case*

## **SESSION 15 (LIVE IN-PERSON)**

## **PART II - THE ARCHITECTURE OF INCOME TAXES**

### **Group presentations**

*Other / Complementary Documentation: Aken case*

*Other / Complementary Documentation: Zobory case*

*Other / Complementary Documentation: Wilcox case*

*Other / Complementary Documentation: James case*

## **SESSION 16 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Deductible vs. non-deductible expenses**

- Deductible expenses
- Non-deductible expenses
- Mixed expenses

*Book Chapters: Course's Manual: Part Two, Subpart C, Deductions (See Bibliography)*

## **SESSION 17 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Group presentations**

*Other / Complementary Documentation: Mallalieu case*

*Other / Complementary Documentation: Daniels case*

## **SESSION 18 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Group presentations**

*Other / Complementary Documentation: Mallalieu case*

*Other / Complementary Documentation: Daniels case*

## **SESSION 19 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Corporate income taxation**

- Business entities and income tax regimes
- Corporate taxpayers
- The justification for Corporate Income Tax

*Other / Complementary Documentation: "Corporate Income Taxation: Selected Features", Section 1 Article: R. Avi-Yonah, "Corporation, Society and State: A Defense of the Corporate Tax" (Va. L. Rev. 90, no. 5 (2004): 1193-255) (ced))*

## **SESSION 20 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Standard corporate income tax systems**

- Corporate income tax base and rate
- Corporate/shareholder integration

*Book Chapters: Course's Manual: Part Three (Taxation of Business Organizations), Subpart A, Sections 1-2-3-4-5 (except for paragraphs 5.5. and 5.6.) (See Bibliography)*  
*Other / Complementary Documentation: "Corporate Income Taxation: Selected Features", Sections 2-3*

## **SESSION 21 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Business income and tax adjustments**

- Financial Accounting and Tax Accounting
- Currently Deductible and Capitalized costs
- Rules on Depreciation and Amortization
- Net operating losses (NOLs)

*Book Chapters: Course's Manual: Part Two (Basic Income Taxation), Subpart C, Section 3 (Capital Cost and Recovery Methods) (See Bibliography)*  
*Other / Complementary Documentation: "Corporate income taxation: selected features", Sections 3-4*

## **SESSION 22 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Debt vs. Equity financing**

- Taxation of dividends vs. taxation of interest
- Limitations to interest deduction
- Tax incentives to company capitalization

*Other / Complementary Documentation: "Corporate income taxation: selected features", Sections 3-4*

## **SESSION 23 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Training**

- Dividend distribution,
- Depreciation
- Interest expenses deduction
- Use of NOLs

## **SESSION 24 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Taxation of corporate groups**

- Intercompany dividends
- Tax consolidation regimes
- Intra-group transactions and transfer pricing issues
- Corporate reorganizations and restructuring

*Book Chapters: Course's Manual: Part Three, Subpart A, Sections 7-8-9 (See Bibliography)*  
*Other / Complementary Documentation: Corporate Income Tax: Selected Features, Sections 5-6*

## **SESSION 25 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Principles of International Income Taxation**

- Resident vs. non-resident taxpayers
- Worldwide vs. territorial taxation
- Taxation of cross-border business profits
- Exit taxation

## **SESSION 26 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Group presentations**

*Other / Complementary Documentation: Lankhorst case*

*Other / Complementary Documentation: National Grid Indus case*

**Teaching comments: SUGGESTION: Sessions 26 - 27 combined**

## **SESSION 27 (LIVE IN-PERSON)**

### **PART II - THE ARCHITECTURE OF INCOME TAXES**

#### **Group presentations**

*Other / Complementary Documentation: Lankhorst case*

*Other / Complementary Documentation: National Grid Indus case*

## **SESSION 28 (LIVE IN-PERSON)**

### **PART III - OTHER TAXES**

#### **Value Added Tax and sales taxes**

- VAT: main features and functioning
- Retail Sales Taxes in the US

*Book Chapters: "Value Added Tax" (Chapter 8), in V. Thuronyi, K. Brooks, B. Kolozs, Comparative Tax Law, Wolters Kluwer (2016) (ced)*

## **SESSION 29 (LIVE IN-PERSON)**

### **PART III - OTHER TAXES**

#### **Other taxes**

- Property and wealth taxes
- Estate and gift taxes

*Book Chapters: "Other Taxes" (Chapter 9), in V. Thuronyi, K. Brooks, B. Kolozs, Comparative Tax Law, Wolters Kluwer (2016) (ced)*



## SESSION 30 (LIVE IN-PERSON)

### PART III - OTHER TAXES

#### Final exam

## EVALUATION CRITERIA

**Class participation** will be assessed based on the quality of interactive contribution to the teaching sessions and compliance with the highest behavioral standards.

**Group work** will mostly consist of a presentation of case law or policy papers; in assessing the presentation, particular attention will be devoted to the ability to identify the most important legal issues, the coordination between group members, effectiveness in the explanation of legal reasoning and time management.

Both the **Mid-term and the Final exam** will be take-home and open book online tests on BBoard Ultra, likely comprised of multiple-choice questions and open essay questions.

Please note that students who, for any reason, do not present the group assignment, or do not sit for the mid-term exam or final exam:

- Will not be given the opportunity to individually present or take the mid-term or final exam on a different day (unless otherwise required by the Program Direction);
- Will receive a 0.0 grade for the missing assignment or exam;
- Will still be able to pass the Course if their weighted final grade is at least 5 (please see below the grading criteria).

criteria	percentage	Learning Objectives	Comments
Final Exam	45 %		
Group Work	15 %		
Class Participation	15 %		
Intermediate tests	25 %		

## RE-SIT / RE-TAKE POLICY

The re-take will consist on a non-open book written exam in May / June, covering all the course.

## BIBLIOGRAPHY

### Compulsory

- Hugh J. Ault, Brian J. Arnold, Graeme S. Cooper. (2019). *Comparative Income Taxation: A Structural Analysis..* Fourth. Kluwer Law International. ISBN 9789403509327 (Printed)

## BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

Etiquette:

Students are required to adopt high behavioral and professional standards during the teaching sessions and in their interaction and correspondence with the instructor (e.g., always address the instructor as “Professor”; do not eat, phone call, text, wear hats during the session etc.). Deviation from such behavioral and professional standards will be sanctioned with the immediate expulsion from the session and/or will be taken into account for the purposes of the participation grade.

## **ATTENDANCE POLICY**

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

## **ETHICAL POLICY**

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

