

# TAXATION OF OUTER SPACE AND OTHER 'EXTRA-NATIONAL' AREAS

## UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW Spring 2025 Syllabus - LAW 26431 / LAW 19907 - 2 CREDITS

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Office hours: Thursdays 14:00-16:00

**MEETING TIME:** Th 1:15-3:15 pm

**LOCATION:** HH - 355A

### **COURSE DESCRIPTION AND OBJECTIVES:**

There are areas on Earth and beyond its atmosphere that are not subject to national appropriation. These include, but are not limited to, outer space, Antarctica, and the High Seas. Although these extra-national areas fall outside the territorial sovereignty of any state, they have been the site of a variety of activities, ranging from scientific exploration to commercial endeavors. This seminar will examine how the taxation of income generated by such commercial activities—activities that, in principle, lack a clear territorial link to any state—is regulated under federal and state law. We will review relevant case law and theoretical issues related to source-based taxation. The seminar will also explore the rationale and functioning of the special rules for determining source under the Internal Revenue Code. Additionally, we will assess the experiences of foreign countries from a comparative perspective and examine the applicability of bilateral tax treaties to income sourced from extra-national areas, considering relevant case law.

While Income Taxation is a prerequisite for this course, prior knowledge of state and local taxation, bilateral tax treaties, space law, and ocean and coastal law is helpful but not essential.

After completing this course, students should be able to:

- Identify key issues arising in connection with the taxation of income from non-sovereign areas.
- Analyze and discuss the rationale and functioning of special rules for determining source provided in the Internal Revenue Code applying to space and ocean income, transportation income and international communications income.
- Understand apportionment and allocation rules.

### **REQUIRED READING MATERIALS:**

No textbook is required for this course. All materials will be provided in PDF form. See the Canvas page to access reading materials.

### **COURSE EXPECTATIONS AND GRADING EVALUATION:**

Your final grade will be calculated as follows: 25% based on your attendance and active engagement in class, 35% for a final essay, and 40% for a presentation of the main ideas of your essay during one of our last classes (the date will be agreed upon). Your essay should focus on a topic covered in class. You are welcome to meet with me ahead of time to discuss your paper topic. The general standard for fulfillment of the advanced writing requirement is one or more papers that are cumulatively at least 25 pages of double-spaced, 12-point text or the equivalent. The essay is due by March 27, 2025. Presentations will take place on April 10 and 17, 2025, and will be followed by a discussion.

**Students are responsible for reviewing the Canvas page for course updates:**

<http://elearning.ufl.edu/>

### **CLASS ATTENDANCE POLICY:**

Attendance is mandatory unless you have a compelling reason not to do so, in which case you should email me beforehand. The University attendance policy can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

Active participation is an essential component of this seminar. I ask that each of you arrive to class having done the readings and prepared to meaningfully engage in discussion. Attendance and active participation in class will account for 25% of your final grade. Therefore, missing more than 2 classes may negatively impact your grade.

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to speak and listen honestly, thoughtfully, and respectfully and allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

### **COMPLIANCE WITH UF HONOR CODE:**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments unless expressly authorized by the professor to do so.

**INFORMATION ON UF LAW GRADING POLICIES:**

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

The law school grading policy is available [here](#).

**OBSERVANCE OF RELIGIOUS HOLIDAYS:**

UF Law respects students’ [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

## **EXAM DELAYS AND ACCOMMODATIONS:**

The law school policy on exam delays and accommodations can be found [here](#).

## **STATEMENT RELATED TO ACCOMODATIONS FOR STUDENTS WITH DISABILITIES**

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

## **STUDENT COURSE EVALUATIONS**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may 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 [here](#).

## **RECORDINGS OF CLASS**

Students are allowed to record video or audio of class lectures. However, the purposes for which these 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 lab sessions, student presentations, clinical presentations such as patient

history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or guest lecturer during 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 and Student Conduct Code.

### **ABA OUT-OF-CLASS HOURS REQUIREMENTS:**

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each weekly class is approximately 2 hours in length, requiring at least 4 hours of preparation outside of class including reading the assigned materials, writing critical analyses, and developing your final essay.

### **University Policy on Academic Misconduct**

UF students are bound by The Honor Pledge, which states: “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: ‘On my honor, I have neither given nor received unauthorized aid in doing this assignment.’” The Honor Code (<https://sccr.dso.ufl.edu/students/student-conduct-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor.

## Getting Help

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

- [helpdesk@ufl.edu](mailto:helpdesk@ufl.edu)
- (352) 392-HELP
- <http://elearning.ufl.edu/> (See "Message Us" at the top)

Other resources are available at <http://www.distance.ufl.edu/getting-help> for counseling and wellness, disability resources, student complaints, and library help desk support.

## Course Schedule Detail

This syllabus is offered as a guide to the direction of the seminar, and it will be updated on Canvas with specific reading assignments and may be adjusted based on new developments. You are responsible for making sure you stay up to date with Canvas. Please focus your attention on the cases in each reading section. Notes and background material can be skimmed.

<b>Class Date</b>	<b>Topic</b>	<b>Reading Assignments</b>
Class 1	Jan 16, 2025	<i>Introduction to the Seminar: Sovereignty</i> <ul style="list-style-type: none"><li>- The 1944 Chicago Convention: Articles 1 and 2</li><li>- UNCLOS: Articles 2, 3, 4, 55, 57, 91 and 92</li><li>- The Outer Space Treaty of 1967: Read Articles I, II, and VIII</li><li>- Colombian position</li></ul> Pages 1-20 of the Article
Class 2	Jan 23, 2025	<i>Tax Jurisdiction in air space, outer space and the High Seas</i> <ul style="list-style-type: none"><li>- Tax jurisdiction: general remarks</li><li>- Taxation of air and shipping activities</li><li>- Tax jurisdiction in outer space</li></ul> Read pages 20-36 of the Article
Class 3	Jan 30, 2025	<i>Space and ocean activities in US tax law: Federal legislation</i> Read <ul style="list-style-type: none"><li>- Savir, Tax Infinity and Beyond, ssrn 2016 (on Canvas)</li><li>- Scuderi (on Canvas)</li></ul>
Class 4	Feb 6, 2025	<i>(Continues) Space and ocean activities in US tax law: Selected States</i>

		Read - Scuderi (on Canvas)
Class 5	Feb 13, 2025	<i>Space and ocean activities in the OECD and US MC</i> - Read Zeyen, Taxation of Outer Space Income Resulting from Air Transport or Employment Activities: Is the OECD Model Convention an Appropriate Tool?, in 49 Intertax 4, 2021 (on Canvas) - Read Scuderi, Taxing to the Moon and Back, Proceedings of the 75th International Astronautical Congress (IAC), Milan, Italy, 14-18 October 2024 (on Canvas)
Class 6	Feb 20, 2025	<i>(Continues) Space and ocean activities in the OECD and US MC</i>
Class 7	Feb 27, 2025	<i>Class discussion on selected case law</i>
Class 8	Mar 6, 2025	<i>(Continues) Class discussion on selected case law</i>
Class 9	Mar 13, 2025	See updates on Canvas
Class 10	Mar 27, 2025	See updates on Canvas  Deadline for submitting the essay
Class 11	Apr 3, 2025	See updates on Canvas
Class 12	Apr 10, 2025	See updates on Canvas  Presentations and discussions
Class 13	Apr 17, 2025	See updates on Canvas  Presentations and discussions