

European Taxation

Georg Kofler

Spring 2023 — Course Overview

Course number: LAW 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;
- the direct tax directives, e.g., in the area of anti-tax avoidance, global minimum taxation, cross-border profit distributions and payments of interest and royalties, and dispute resolution, 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 current work on EU tax policy and the EU's external strategy, such as 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 recommendations refer to M. Lang, P. Pistone, J. Schuch, C. Staringer, A. Rust, G. Kofler & K. Spies (eds.), *Introduction to European Tax Law on Direct Taxation*, 7th edn., Linde Vienna 2022. However, there are a number of other recent textbooks available on EU direct tax law, and you are free to use any of them instead.

Office hours: Wednesdays before class or any other day/time by appointment (either in-person or online). Please just e-mail me at georg.kofler@gmail.com.

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

Grading: Grading is based on the final exam (100%).

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.

Other information: Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

#	Date	Day, Time, Room	Topics
1	Jan. 18	Wed., 3.30-5.30 p.m. HH – 359	Introduction Recommended reading: Chapters 1 and 2 in the textbook on the “The Sources of EU Law Relevant for Direct Taxation” and on “The Coordination of Tax Policies in the EU” The Treaty on the Functioning on the European Union (TFEU) can be found here .
2	Jan. 25	Wed., 3.30-5.30 p.m. HH – 359	Fundamental Freedoms Recommended reading: Chapter 3 in the textbook on the “The Relevance of the Fundamental Freedoms for Direct Taxation”. Please read the Court’s decisions on
3	Feb. 1	Wed., 3.30-5.30 p.m. HH – 359	▪ Personal and family benefits: Schumacker and X (and ECJ-TF 4/2017) ▪ Business expenses: Gerritse and Scorpio (and ECJ-TF 2/2016) ▪ Permanent establishments: Avoir Fiscal and Saint-Gobain ▪ Cross-border dividends: Haribo and Salinen and Miljoen (and ECJ-TF 1/2016 and ECJ-TF 1/2017) ▪ Foreign losses: Marks & Spencer, Timac Agro, Bevola and W AG (and ECJ-TF 2/2015, ECJ-TF 3/2018, and ECJ-TF 4/2022) ▪ Exit taxation: N, National Grid Indus, and DMC (and ECJ-TF 3/2014) ▪ Horizontal discrimination: D and Sopora (and ECJ-TF 3/2015) ▪ Double taxation: Kerckhaert-Morres (and ECJ-TF 2/2021)
5	Feb. 15	Wed., 3.30-5.30 p.m. HH – 359	EU State Aid Recommended reading: Chapter 4 in the textbook on the “The State Aid Provisions of the TFEU in Tax Matters”. Please read the Court’s decisions in World Duty Free (and ECJ-TF 2/2017), Aer Lingus , Dirk Andres , and Fiat Skim through the EU Commission’s Notice on Article 107 TFEU, available here
6	Feb. 22	Wed., 3.30-5.30 p.m. HH – 359	EU Charter of Fundamental Rights Please skim through the Charter, available here . Please read the Court’s decision in Berlioz (and ECJ-TF 3/2017) and Orde van Vlaamse Balies
7	Mar. 1	Wed., 3.30-5.30 p.m. HH – 359	Anti-Tax-Avoidance Directive (ATAD) Recommended reading: Chapter 8 in the textbook on the “The Anti-Tax Avoidance Directive”. Please skim through the ATAD, available here (ATAD 1) and here (ATAD 2)
8	Mar. 8	Wed., 3.30-5.30 p.m. HH – 359	Taxation of the Digitalized Economy and Global Minimum Taxation (“Pillar Two Directive”) Please have a look at the Directive, available here , and the underlying OECD Model rules, available here .

9	Mar. 15	No class	Spring Break
10	Mar. 22	Wed., 3.30-5.30 p.m. HH – 359	Taxation of the Digitalized Economy and Global Minimum Taxation (“Pillar Two Directive”) (continued) Please have a look at the Directive, available here , and the underlying OECD Model rules, available here .
11	Mar. 29	Wed., 3.30-5.30 p.m. HH – 359	Parent-Subsidiary-Directive (PSD) Recommended reading: Chapter 5 in the textbook on “The Parent-Subsidiary Directive” Also skim through the Directive, available here . Please read the Court’s decision in Egiom and ECJ-TF 2/2018 .
12	Apr. 5	Wed., 3.30-5.30 p.m. HH – 359	Interest-Royalties-Directive (IRD) Recommended reading: Chapter 7 in the textbook on “The Interest and Royalty Directive” Also skim through the Directive, available here . Please have a look at the Court’s “Danish Cases” (ECJ-TF 2/2019).
13	Apr. 12	Wed., 3.30-5.30 p.m. HH – 359	Dispute Resolution (TDRD) Recommended reading: Chapter 10 in the textbook on “The EU Arbitration Convention and Dispute Resolution Directive”. Please skim through the Directive, available here .
14	Apr. 19	Wed., 3.30-5.30 p.m. HH – 359	Recent EU Proposals and Developments