

Module Title: International Tax Law
Credit Points: 10 ECTS / 20 UK credits

Overview:

This module will focus on an analysis of principal features of the international tax law system, from the perspective of Irish and EU law. The course looks generally at the main theories, concepts and principles of international tax law and then more particularly at the main substantive areas of the subject such as principally public international law and taxation, the OECD Model Income Tax Convention and EC law as it affects member states' tax systems. Thereafter the course examines important issues such as the different approaches to corporate income taxation, tackling international tax avoidance, international tax law as it applies to developing countries, and the issues in modifying established international tax rules to regulate e-commerce activity.

Aims (To provide students with):

- a critical awareness of the established fundamental principles of international tax law
- an introduction to the Irish legal framework for international taxation as a general model with a central focus on the taxation of Irish tax residents on foreign source income and non-Irish tax residents on Irish source income
- an overview of public international law as it affects the allocation of jurisdiction to tax between nations
- an understanding of the significance and function of the OECD Model Income Tax Convention on the international tax system and the tax treaty networks of OECD countries
- a capacity to determine the application of core provisions of tax treaties in realistic international commercial scenarios
- an appreciation of the substantial jurisprudence of the European Court of Justice on the application of the fundamental freedoms of movement to the tax systems of EC member states.
- an analysis of key issues in international taxation, being the approaches to cross-border tax avoidance, the issues in adapting tax treaties to address the requirements of developing countries, and the recent challenges posed by e-commerce to the traditional elements of the international tax system.

Module Content

- Introduction to International Taxation
 - Scope of international taxation
 - Historical development
 - Principles and objectives
 - Conceptual and legal sources of international tax law
- Irish legal framework for international taxation
 - Taxation of residents on foreign source income
 - Taxation of non-residents on Irish-source income
 - Double taxation relief mechanisms under Irish domestic law
 - Tax relief for corporate groups under Irish domestic law
 - Irish bilateral income tax treaties
- Public international law and taxation
 - Normative relevance of public international law to matters of international taxation
 - Principles of tax jurisdiction under public international law
 - Principles of tax treaty interpretation
- OECD Model Income Tax Convention
 - Introduction: history, objectives, structure
 - Taxation on bases of residence and source
 - Classification and assignment of income
 - Irish tax treaties in the context of the OECD Model
 - Taxation of residents
 - Permanent establishment (taxation of non-resident business entities)
 - Taxation of business profits
 - Taxation of dividends, interest, royalties

- Partnership taxation
- Capital gains tax
- Limitations on treaty benefits
- Methods for relief from double taxation
- Mutual agreement procedures for avoidance of double taxation
- European Community Law and member states' tax systems
 - Allocation of fiscal competence between the EC and member states under the EC Treaty
 - Fundamental freedoms and member states' tax systems
 - Free movement of persons
 - Freedom of establishment and services
 - Free movement of capita
 - Secondary legislation
 - Mergers Directive
 - Parent and Subsidiary Directive
 - EC reform
- Comparative Income Taxation Comparison of the tax regimes of Ireland, UK, USA, Germany, Japan under the following headings:
 - Individual and corporate income taxation
 - Interaction of shareholder and corporate taxation
- Regulation of cross-border tax avoidance
 - Transfer pricing
 - Controlled foreign corporations (CFCs)
 - General anti-avoidance provisions in common law jurisdictions
- International tax law and developing countries
 - UN Model Income Tax Convention
 - Differences between UN and OECD Models
 - International justice and taxation
- Taxation of e-commerce
 - Tax treaty issues
 - Reform of the Permanent Establishment rule
 - OECD reforms on taxation of business profits
 - Fundamental reforms

Indicative Reading

- Ault, 1997. Comparative Income Taxation, Kluwer Law International
- Baker P. 2001. Double Taxation Agreements and International Tax Law, Sweet and Maxwell
- De Burca, G. & Scott, J., 2003. The EU and the WTO: Legal and Constitutional Issues New ed., Hart Publishing
- Haccius, 1995. Ireland in International Tax Planning, IBFD Publications
- Harris, 1996. Corporate/Shareholder Income Taxation, IBFD Publications
- OECD, 2008. OECD International Tax Convention on Income and Capital.
- Terra and Wattel, 2008. European Tax Law, Kluwer Law International
- Vogel K., 1997. Double Taxation Conventions, Kluwer Law International
- Van Raad, 2005. Materials on International and EC Tax Law 2004-2005 volume 1, Leiden: International Tax Center

Assessment methods

30% Assignment

70% Exam