



18th LJUBLJANA SUMMER SCHOOL
Take the Best from East and West
3 - 21 July 2017

University of Ljubljana

FACULTY OF
ECONOMICS

LJUBLJANA SUMMER SCHOOL 2017

COURSE TITLE: INTERNATIONAL AND EUROPEAN TAXATION

Type of course: Bachelor course

Lecturer: Marco Greggi, Ph.D., LL.M., University of Ferrara / Faculty of Law, Italy

ECTS credits: 6

Aims of the course:

Taxation is nowadays an essential element in every business decision, either in Europe or all around the world. The best decisions in this respect are taken considering the legal framework in which the company or the individual is going to operate, the domestic provisions, the tax treaties applicable and, if the business operation shall be carried on in Europe, EU law. Knowledge of European tax law and its interaction with International tax law is of paramount importance therefore not only for European students and perspective practitioners, but also for third Countries ones planning to work in the future in one of the 27 European States or for a company having business interactions with them.

The aim of the course is therefore to provide an introduction on how and under which conditions individuals corporations and their branches or subsidiaries are taxed, considering International tax Treaties, EU law and qualified domestic provisions. Institutional aspects shall be addressed, including the single tax principle, the prevention of double taxation, the source rules and the jurisdiction to tax.

After this basic approach, the course deal with the most recent development in International Taxation and European taxation affecting corporate taxation, such as the BEPS project (base Erosion and Profit shifting) the initiative on a Common Corporate Consolidated Tax Base and taxation of passive income (with a specific emphasis on Patent taxation and tax planning using intangibles)

Students coming from EU will have the opportunity to become familiar with taxation in general and European taxation in particular as they are applied to resident and on resident companies. A special attention shall be attributed to the application of general principles such as the non-discrimination and freedom of establishment to taxation and the conditions according to which they may be extended to legal entities. They will become familiar with the most important directives concerning income taxation, VAT (value added tax) and Customs duties as well.

Students coming from non EU Countries will familiarize with international taxation, the possibilities of (legitimate) tax planning using companies and trusts, and the anti-avoidance provisions.



Eventually, avoidance, evasion and tax planning shall be addressed during the course, providing to the students real life examples, cases and decision taken by judges all around the world.

Course syllabus:

Day	Topic Covered	Speaker / Notes
1	Essentials on Taxation <ol style="list-style-type: none"> 1. What is a Tax, anyway ? 2. Taxation and the Power to Tax: conditions and limits. 3. The Role of the State in defining Taxes and taxing Corporations. 4. Supra national constraints deriving from the EU legal system. 	Professor Marco Greggì Introducing the issue of taxation: tax liability, the power to tax and its exercise. Tax and taxation. Why and under which conditions taxes are levied.
2	Understanding International Tax law <ol style="list-style-type: none"> 1. Source and Residence in International Taxation. 2. The Palace of Effective Management of corporations. 3. International Double Taxation on Business Income. 	Professor Marco Greggì The basic principles of international taxation as applied to corporations and individuals, the issue of concurrent taxing powers.
3	Fundamental Freedoms and Non-discrimination Principle: the European Framework <ol style="list-style-type: none"> 1. Freedom of Establishment in Europe (Branches, Subsidiaries, Permanent establishments). 2. Primary and Secondary Establishment for Corporations. 3. Freedom of Establishment and Third Countries. 4. Distinguishing Freedom of Establishment from Free Movement of Capitals. 	Professor Marco Greggì EU law and international taxation: comprehending the system and the way in which it overlaps to international taxation.
4	The Development of International Tax law: Tax Treaties and their Interpretation (Part I). <ol style="list-style-type: none"> 1. Interpreting Tax Treaties: Their Scope and Their Role in Corporate Tax Planning Decisions. 2. The OECD and UN Models Conventions. 3. The Tie Break Rules for Individuals and Corporations; 4. The Notion of Permanent Establishment: the Determination of Taxable Income and of the Deductible Costs. 	Professor Marco Greggì The role of OECD and UN in the development of International taxation. Taxing non-resident companies using the permanent establishment.
5	The Development of International Tax law: Tax Treaties and their Interpretation (Part II). <ol style="list-style-type: none"> 1. Passive Income and Taxation of Dividends, Interests and Royalties. 2. Capital Gains and Business Operations: the <i>Participation Exemption</i> for Companies. 3. Relief from Double Taxation. 4. The Non-discrimination Clause in International Tax Law. 	Professor Marco Greggì Taxation at source and withholding taxation. The impact of the Treaties and the reduction of the tax rates. The definition of Beneficial Owner for Tax treaty purposes.
6	Tax Planning and Corporate Tax liability <ol style="list-style-type: none"> 1. Business Income in the Treaties. 2. Fiscal Unity and Tax Liability of Group of Companies 3. Residence Rules for Companies and Liability to Tax. 4. Mutual Agreement Procedures and Arbitrations as Remedies for Double Taxation on Corporations? 	Professor Marco Greggì Corporate tax liability taxing cross border business.
7	Base erosion and Profit Shifting <ol style="list-style-type: none"> 1. The BEPS project in a nutshell. 2. Understanding Base Erosion and Profit Shifting: it 	Professor Marco Greggì The role of the OECD in the struggle against tax avoidance

	<p>impact on business profits calculation.</p> <ol style="list-style-type: none"> 3. Digital Economy and International Taxation. 4. Intangibles and Tax Liability of Corporations. 	and “Double non-taxation”. The new limits (and the new possibilities) for tax planning operation by companies.
8	<p>Transfer Pricing and Arm’s length value</p> <ol style="list-style-type: none"> 1. Transfer Pricing and Arm’s length Value. 2. Determining Profits and Losses of a Company following the Transfer Pricing Approach. 3. Ways and Means to Assess the Market Value of an Asset. 	<p>Professor Marco Greggi</p> <p>Transfer pricing as a cornerstone of International tax planning. How to calculate the value of assets sold (or licensed) in intra-group business transactions.</p>
9	<p>Practical cases on Transfer pricing an tax planning</p> <ol style="list-style-type: none"> 1. Transfer pricing in the case law, selection of cases. 2. The <i>Dolce and Gabbana</i> case. 3. The <i>Royal Bank of Scotland</i> case. 4. The <i>Apple</i> and the <i>Philip Morris</i> cases. 5. The use of Trusts in tax planning. 	<p>Professor Marco Greggi</p> <p>A number of sentences inspired by the Italian, European and US experiences shall be addressed in details and with a specific clarification of the circumstances of the cases.</p>
10	<p>Tax Planning, Tax Avoidance and Tax Evasion</p> <ol style="list-style-type: none"> 1. The role of tax planning in business decision-making process. 2. Understanding the concepts: the formal approach versus “substance over form”. 3. Ways and means to prevent avoidance: a comparative perspective 	<p>Professor Marco Greggi</p> <p>The fundamental distinction between the three concepts shall be addressed, with a number of examples taken for the real life. Eventually, the students will approach the most recent legal instrument currently implemented on a world wide scale to prevent avoidance and evasion, including the exchange of information between tax administration.</p>

Bibliography

1. Miller, A., & Oats, L. (2012). Principles of International Taxation (1st ed.). Haywards Heaths: Bloomsbury Professional.
2. Panayi, C. H. (2013). European Union Corporate Taxation (1st ed.). Cambridge: Cambridge University Press.
3. Lang, M. (2014). Union Law and OECD Model Concepts: What Can We Learn from the Comparison? In G. Maisto (Ed.), Departures from the OECD Model and Commentaries (1st ed., pp. 73 – 96). AMSTERDAM -- NLD: IBFD.
4. Avi – Yonah, R., Sartori, N. & Marian, O. (2011). Income Taxation Law (1st ed.). New York: Oxford University Press.

Further references will be recommended during the lessons.

Teaching methods:

Lectures with PowerPoint slides further short readings and cases will be made available in PDF format during the lessons where needed.

Prerequisites:

No prior knowledge of law or taxation is needed: lessons 1 and 2 shall be aimed at providing all the necessary information to understand the basics of taxation law.

Examination methods:

Final written exam according to the FELU schedule



Note: This course is comparable to the officially accredited course Taxes and Corporate Tax Burden (ECTS: 6) at the Faculty of Economics, University of Ljubljana.

