

**Syllabus for Professor Eduardo Gracia & Professor Juan Garicano (2<sup>nd</sup> syllabus)**

**SUBJECT DETAILS**

Data on the subject	
Name	EU Tax Law and International Tax Planning
Degree	Postgraduate in Master in International and European Business Law
Year	2015-16
Nature	Spring
ECTS Credits	1 Credit (10 class hours)
Department	Law
Area	Law
Teaching staff	Eduardo Gracia Espinar

Data on the teaching staff	
Teaching staff	Eduardo Gracia Espinar
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Tutoring Schedule	Upon request from students

**SPECIFIC DATA ON THE SUBJECT**

Pre-requisites
None
Contribution of the degree to the professional profile
You will gain from this course a strong understanding of mechanisms to clamp down on tax fraud and on double taxation issues in Europe in order to enable you to provide services to clients operating, or seeking to operate, in Europe.

## COMPETENCES TO BE IMPROVED

<b>What skills you'll gain from this class:</b>
<b>Generic Competences</b>
Ability to analyze and synthesize information The ability to manage large quantities of information. The development of critical reasoning skills. The ability to work in groups and individually. The ability to work in an international context
<b>Specific competences of the subject</b>
Develop a strong command over EU instruments, international treaties and related instruments, particularly related to cross border investment.  Understand the principal norms of EU and international law with regards to the development of businesses.  Develop the ability to design restructuring strategies of businesses and other inter-group activities in order to maximize the legal advantage.  Identify the mechanisms in place on exchange of information and other ways of administrative assistance between the EU national fiscs.  Identify ways to isolate and deal with risk.

## THEMATIC AREA AND CONTENT

<b>AREA 1: GLOBAL CONTEXT: Actions taken by supranational bodies outside the EU and certain third countries governments</b>
<b>Theme 1: G-20 MEETINGS: Endorsement of OECD works</b>
1.1 OECD Agreement on exchange of information on tax matters and Manual on the implementation of exchange of information provisions for tax purposes 1.2 Withdrawal of reservations by Switzerland, Luxembourg, Belgium and Austria (March 2009) 1.3 The Global Forum on Transparency and Exchange of Information for Tax Purposes: Peer Reviews 1.4 List of tax havens (Progress reports on the jurisdictions surveyed by the OECD Global Forum in implementing the internationally agreed tax standard on exchange of information on request) 1.5 Convention on Mutual Administrative Assistance in Tax Matters (as amended by the 2010 Protocol), signed by the member States of the Council of Europe and the member countries of the OECD 1.6 Update to Article 26 of the OECD Model Tax Convention and its Commentary 1.7 Standard for Automatic Exchange of Financial Account Information in Tax Matters (15 July 2014)
<b>Theme 2: MAIN ACTIONS ENACTED BY USA AND SWITZERLAND</b>
<b>2.1 USA:</b>

- 2.1.1 The US Foreign Account Tax Compliance Act (FATCA)
  - 2.1.1.1 Implementation FATCA: Bilateral agreements with the US (two models)
- 2.1.2 US Civil proceedings against UBS and other foreign financial institutions
- 2.1.3 2011 Offshore Voluntary Disclosure Program
- 2.1.4 EU/US Dialogue on the US Foreign Account Tax Compliance Act in order to lighten the compliance burden on EU financial institutions

## 2.2 SWITZERLAND:

- 2.2.1 Signature of new Protocols
- 2.2.2 Regulation for the interpretation of the Protocols
- 2.2.3 "Rubik Model" Tax Treaties with the UK and Austria
- 2.2.4 Ongoing negotiations with the EU.

## Theme 3: UNITED NATIONS MODEL TAX CONVENTION (2001)

### 3.1 The exchange of tax information provision contained in the 2001 UN Model Tax Convention

## Theme 4: OTHER RELEVANT FACTS/ACTIONS

- 4.1 Theft of information (LGT, HSBC, Credit Suisse, Julius Baer and Coutts bank)
- 4.2 French court decision that prohibits French tax authorities from using stolen taxpayer data in investigations of possible tax evasion (Paris Court of Appeal Decision of 8 February 2011).

## AREA 2: EUROPEAN UNION LAW

### Theme 1: Background

- 1.1 Council Directive 77/799/EEC, of 19 December 1977, concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums; and related case law of the European Court of Justice (EU and non-EU approach) (C-267/09, Commission vs Portugal; C-436/08, Haribo; C-418/07, Papillon; C-248/06, Commission vs Spain; C-451/05, Elisa; C-540/07, Commission vs Italy; C-72/09, Établissements Rimbaud).
- 1.2 Council Directive 76/308/EEC, of 15 March 1976, on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures (codified by the Council Directive 2008/55/EC); and related case law of the European Court of Justice (C-267/09, Commission vs Portugal; C-470/04, N; C-233/08, Kyrian). Reference to the exit taxation.

### Theme 2: Legislation in force

- 2.1 Introduction
- 2.2 **Council Directive 2011/16/EU** of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC
  - 2.2.1 Commission Implementing Regulation (EU) N° 1156/2012 of 6 December 2012 laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation
  - 2.2.2 Commission Implementing Regulation (EU) N° 1353/2014 of 15 December 2014 amending Implementing Regulation (EU) N° 1156/2012 laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation.
  - 2.2.3 Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of financial information in the field of taxation
- 2.3 **Council Directive 2010/24/EU** of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures
  - 2.3.1 Commission Implementing Regulation (EU) N° 1189/2011 of 18 November 2011 laying down detailed rules in relation to certain provisions of Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures
- 2.4 **Council Directive 2003/48/EC** of 3 June 2003 on taxation of savings income in the form of interest payments: Main content
  - 2.4.1 Council Directive 2014/48/EU of 24 March 2014 amending Directive 2003/48/EC on taxation of

savings income in the form of interest payments.

2.4.2 Agreements between the European Community and five European countries (the Swiss Confederation, the Principality of Andorra, the Principality of Liechtenstein, the Principality of Monaco and the Republic of San Marino) providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments

*NOTE: In May 2013, the Council approved a mandate for the Commission to negotiate amendments to the EU's agreements with Switzerland, Liechtenstein, Monaco, Andorra and San Marino on the taxation of savings income*

2.4.3 Agreements/arrangements between each of the EU Member States and each of the ten relevant dependent or associated territories of Member States (Guernsey, Isle of Man, Jersey, Netherlands Antilles, Aruba, Anguilla, British Virgin Islands, Cayman Islands, Montserrat and Turks & Caicos)

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography

#### Text books

#### Chapters of books

#### Articles

- "Hacia una nueva Era de Cooperación Fiscal Europea: las Directivas 2010/24/UE y 2011/16/UE de Asistencia en la Recaudación y de Cooperación Administrativa en materia Fiscal" (Jose Manuel Calderón Carrero) (*Revista CEF Contabilidad y Tributación*, 2011)
- The fight against tax havens and tax evasion. Progress since the London G20 summit and the challenges ahead (Jose Luis Escario Díaz-Berrio) (2011)  
<http://www.falternativas.org/opex/documentos/documentos-de-trabajo/the-fight-against-tax-havens-and-tax-evasion-progress-since-the-london-g20-summit-and-the-challenges-ahead>
- Council Adopts New Directive on Mutual Assistance in Recovery of Tax and Similar Claims (Vascega/Van Thiel) (*European Taxation - IBFD*, June 2010)
- The next tax agreement between Germany and Switzerland. Milestone or selling of indulgences? (Andreas Perdelweitz) (*European Taxation - IBFD*, 2011)
- The impact of the US Foreign Account Tax Compliance Act (FATCA) on European Entities (Petra Eckl and Jonathan Sambur) (*European Taxation - IBFD*, 2012)
- "La cooperación administrativa en la Unión Europea contra el fraude fiscal" (José Pedreira Menéndez) (*Revista Quincena Fiscal*, 2012)
- "Novedades en asistencia mutua: la Directiva 2010/24/UE y el Real Decreto-Ley 20/2011" (Javier Bas Soria) (*Revista CEF Contabilidad y Tributación*, 2012)
- The Era of Exchange of Information and Fiscal Transparency: The Use of Soft Law Instruments and the Enhancement of Good Governace in Tax Matters (Dr Alicja Brodzka and Dr Sebastiano Garufi) (*European Taxation - IBFD*, 2012)
- "El fortalecimiento de la obtención de información tributaria en el ámbito internacional: FATCA versus RUBIK" (Luis Alfonso Martínez Giner) (*Revista Quincena Fiscal*, 2012)
- "La asistencia mutua comunitaria en materia de recaudación" (Jesús-Félix García de Pablos) (*Gaceta Jurídica de la UE y de la Competencia*, 2012)
- "La dimensión aplicativa de la Directiva Comunitaria de Intercambio de Información Tributaria" (José María Tovillas Morán) (*Revista Quincena Fiscal*, Mayo 2013)
- "El intercambio de información internacional de naturaleza tributaria: la Directiva 2011/16/UE" (Jesús Félix García de Pablos). (*Gaceta Jurídica de la Unión Europea y de la Competencia*, 2013)

- "The development of International assistance in tax matters in Switzerland: from evolution to revolution" (Dr Xavier Oberson). (*European Taxation – IBFD, 2013*)
- "Diferentes enfoques para el intercambio automático de información". (Patricia Lampreave Márquez). (*Revista Quincena Fiscal, Septiembre 2013*)
- "FATCA and tax treaties: Does it really take two to tango?". (Tonia Padiaditaki) (*European Taxation – IBFD, 2013*)
- "The road to FATCA in the European Union" (Alicja Brodzca) (*European Taxation – IBFD, 2013*)
- "OECD Actions to counter tax evasion and tax avoidance (2013): Base erosion and profit shifting and the proposed action plan, aggressive tax planning based on after-tax hedging and automatic exchange of information as the new standard" (Andrei Cracca). (*European Taxation– IBFD, 2013*)
- "El futuro estándar global OCDE de intercambio automático de información financiera" (José Manuel Calderón Carrero) (*Revista CEF Contabilidad y Tributación nº 374, Mayo 2014*)
- "Análisis de la Directiva 2014/48/UE, de 24 de marzo, que modifica la Directiva del Ahorro" (Francisco José Delmas González) (*Revista Actum Fiscal nº 87, Mayo 2014*)

#### Websites

- Website of the OECD (Exchange of Information Section)  
[http://www.oecd.org/topic/0,3699,en\\_2649\\_33767\\_1\\_1\\_1\\_1\\_37427,00.html](http://www.oecd.org/topic/0,3699,en_2649_33767_1_1_1_1_37427,00.html)
- Website of the European Commission (Taxation and Customs Union)  
[http://ec.europa.eu/taxation\\_customs/index\\_en.htm](http://ec.europa.eu/taxation_customs/index_en.htm)
- Website of the Federal Department of Finance of the Swiss Confederation:  
<http://www.efd.admin.ch/index.html?lang=en>
- Website of the US Internal Revenue Service (FATCA Section):  
[http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))

#### Notes

#### Other materials

- Update to Article 26 of the OECD Model Tax Convention and its Commentary (17 July 2012):  
[http://www.oecd.org/ctp/exchangeofinformation/120718\\_Article%2026-ENG\\_no%20cover%20\(2\).pdf](http://www.oecd.org/ctp/exchangeofinformation/120718_Article%2026-ENG_no%20cover%20(2).pdf)
- OECD Agreement on exchange of information on tax matters:  
<http://www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf>
- OECD Manual on the implementation of exchange of information provisions for tax purposes:  
<http://www.oecd.org/dataoecd/16/23/36647823.pdf>
- Convention on Mutual Administrative Assistance in Tax Matters (as amended by the 2010 Protocol), signed by the member States of the Council of Europe and the member countries of the OECD:  
<http://www.oecd.org/dataoecd/33/33/47058794.pdf>
- The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes:  
[http://www.oecd.org/site/0,3407,en\\_21571361\\_43854757\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/site/0,3407,en_21571361_43854757_1_1_1_1_1,00.html)
- OECD Report to the G20 Leaders (Brisbane, Australia. November 2014)  
<http://www.oecd.org/tax/transparency/OECD-secretary-general-report-tax-matters-brisbane-november-2014.pdf>
- Standard for Automatic Exchange of Financial Account Information in Tax Matters (It contains the text of the Model Competent Authority Agreement and the Common Reporting Standard).  
<http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf>
- 51 jurisdictions sign first ever multilateral agreement implementing the Standard on automatic exchange (Press Release 29.10.2014)  
<http://www.oecd.org/tax/exchange-of-tax-information/multilateral-competent-authority-agreement.htm>

- Report on international financial and tax matters 2015 (Swiss Confederation. Federal Department of Finance)  
<http://www.news.admin.ch/NSBSubscriber/message/attachments/38238.pdf>
  - Switzerland seeks to prevent Banks from accepting untaxed assets with enhanced due diligence requirements  
<http://www.news.admin.ch/message/index.html?lang=en&msg-id=47291>
  - The Swiss Federal Council has announced the submission to Parliament of a number of amendments to existing double tax treaties with Denmark, Finland, France, the UK, Qatar, Luxembourg, Mexico, Norway and Austria to bring these agreements in line with the international standard for information exchange:  
<http://www.admin.ch/aktuell/00089/index.html?lang=en&msg-id=38487>
  - Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on cooperation in the area of taxation (English Version):  
<http://www.hmrc.gov.uk/taxtreaties/swiss.pdf>
  - Switzerland and Austria sign withholding tax agreement (13.04.2012):  
<https://www.news.admin.ch/message/?lang=en&msg-id=44130>
  - Switzerland takes further step towards introduction of automatic exchange of information (Press Release 19.11.2014)  
<http://www.efd.admin.ch/dokumentation/medieninformationen/00467/index.html?lang=en&msg-id=55327>
  - 2011 US Offshore Voluntary Disclosure Initiative. Frequently Asked Questions and Answers  
<http://www.irs.gov/businesses/international/article/0,,id=235699,00.html>
  - The United Nations Model Tax Convention:  
<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan002084.pdf>
  - The 2011 update of the United Nations Model Tax Convention:  
<http://www.un.org/en/development/desa/publications/double-taxation-convention.html>
  - Council Directive 77/799/EEC, of 19 December 1977, concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1977L0799:20070101:EN:PDF>
  - Council Directive 76/308/EEC, of 15 March 1976, on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures (codified by the Council Directive 2008/55/EC)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:150:0028:0038:EN:PDF>
  - Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003L0048:20070101:EN:PDF>
  - Council Directive 2014/48/EU of 24 March 2014 amending Directive 2003/48/EC on taxation of savings income in the form of interest payments  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0048&from=EN>
  - Agreements between the European Community and five European countries (the Swiss Confederation, the Principality of Andorra, the Principality of Liechtenstein, the Principality of Monaco and the Republic of San Marino) providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments  
[http://ec.europa.eu/taxation\\_customs/taxation/personal\\_tax/savings\\_tax/legal\\_bases/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/legal_bases/index_en.htm)
- NOTE: In May 2013, the Council approved a mandate for the Commission to negotiate amendments to the EU's agreements with Switzerland, Liechtenstein, Monaco, Andorra and San Marino on the taxation of savings income*

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ecofin/137122.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/137122.pdf)

- Agreements/arrangements between each of the EU Member States and each of the ten relevant dependent or associated territories of Member States (Guernsey, Isle of Man, Jersey, Netherlands Antilles, Aruba, Anguilla, British Virgin Islands, Cayman Islands, Montserrat and Turks & Caicos)

[http://ec.europa.eu/taxation\\_customs/taxation/personal\\_tax/savings\\_tax/legal\\_bases/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/legal_bases/index_en.htm)

- Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:064:0001:0012:EN:PDF>

- Commission Implementing Regulation (EU) N° 1156/2012 of 6 December 2012 laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:335:0042:0046:EN:PDF>

- Commission Implementing Regulation (EU) N° 1353/2014 of 15 December 2014 amending Implementing Regulation (EU) N° 1156/2012 laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation.

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:365:FULL&from=ES>

- Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_359\\_R\\_0001&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_359_R_0001&from=ES)

- The European Council on 22 May 2013 requested the extension of automatic exchange of information at EU and global level, for a better fight against tax fraud, tax evasion and aggressive tax planning and welcomed the Commission's intention to make a proposal in this regard.

[http://europa.eu/rapid/press-release\\_IP-13-530\\_en.htm](http://europa.eu/rapid/press-release_IP-13-530_en.htm)

- Preventing tax evasion and fraud: the scope for automatic exchange of information is extended (Press Release 9 December 2014)

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ecofin/146126.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/146126.pdf)

- Communication from the Commission to the European Parliament and the Council of 27 June 2012 on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries

[http://ec.europa.eu/taxation\\_customs/resources/documents/common/publications/com\\_reports/taxation/com\(2012\)351\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/publications/com_reports/taxation/com(2012)351_en.pdf)

- Communication from the Commission to the European Parliament and the Council of 6 December of 2012 on an Action Plan to strengthen the fight against tax fraud and tax evasion

[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/com\\_2012\\_72\\_2\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/com_2012_72_2_en.pdf)

- Commission Recommendation of 6 December of 2012 on aggressive tax planning

[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/c\\_2012\\_8806\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8806_en.pdf)

- Commission Recommendation of 6 December of 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters

[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/c\\_2012\\_8805\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf)

- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:084:0001:0012:EN:PDF>

- Commission Implementing Regulation (EU) N° 1189/2011 of 18 November 2011 laying down detailed rules in relation to certain provisions of Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:302:0016:0027:EN:PDF>

- ECOFIN Examines Savings Taxation and Antifraud Agreements (PRESS RELEASE - 3067th Council meeting Economic and Financial Affairs. Brussels, 15 February 2011)  
<http://europa.eu/rapid/pressReleasesAction.do?reference=PRES/11/25&format=HTML&aged=0&language=EN&guiLanguage=en>
- EU/US Dialogue on the Foreign Account Tax Compliance Act  
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/413&format=HTML&aged=0&language=EN&guiLanguage=es>
- Model Intergovernmental Agreements for the implementation of FATCA:  
<http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx#ModelAgreements>
- Press release (20.11.2012): "Hacienda se dota de nuevos instrumentos para luchar contra la evasión fiscal Internacional"  
<http://www.minhap.gob.es/Documentacion/Publico/GabineteMinistro/Notas%20Prensa/2012/SE%20HACIENDA/20-11-12%20NP%20Fiscalidad%20Internacional.pdf>

### TEACHING METHODOLOGY

<b>General methodological aspects of the subject</b>
<b>Contact hours methodology: Activities</b>
Students must prepare the reading material and the assignment before the corresponding session. All sessions will be open for discussion at all times and participation is highly encouraged. Students must bring to the sessions a copy of the following materials: (i) Updated version of the Article 26 of the OECD Model Tax Convention and its Commentary; (ii) Directives in force; and (iii) OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters ( <u>Note</u> : Only the Model Competent Authority Agreement and the Common Reporting Standard).
<b>Independent study methodology: Activities</b>

SUMMARY OF STUDENT WORK HOURS			
Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	4		4
Practical class			
Debate		5	5
In class presentation	5	10	15
Individual work		10	10
Work in collaboration			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	1	10	11
Evaluation: exam review			
Others			
<b>ECTS Credits:</b>	<b>10 hours (1 Credit)</b>	<b>35</b>	<b>45</b>

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	Preparing cases individually	Practical cases will be assigned to student who will have to analyse and work on them individually.	15%
Attendance		Full attendance in the classes	10%
Debate	Open discussion of practical exercises	Most of the topics will be discussed with practical exercises which will be very similar to the final exam.	25%
Class presentation			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	Practical exam based on materials reviewed at class.	One whole session will be used for the final exam	50%

## SUBJECT DETAILS

Data on the subject	
Name	3 separate classes: European Tax Rules, Transfer Pricing & Intra-Group Deals and International Tax Planning in Emerging Countries and the U.S.
Degree	Postgraduate in Master in International and European Business Law
Year	2015-2016 (Fall)
Nature	Semester
ECTS Credits	3
Department	Law
Area	Law
Teaching staff	Juan Garicano

Data on the teaching staff	
Teaching staff	Juan Garicano
e-mail	<a href="mailto:Juan.garicano@gmail.com">Juan.garicano@gmail.com</a>
Telephone	+34 91 349 82 00
Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

Pre-requisites
None

### Contribution of the degree to the professional profile

Students will develop an in-depth understanding of European tax rules, transfer pricing and tax planning.

## THEMATIC AREA AND CONTENT

### AREA 1: EU TAX RULES

#### Theme 1: EU Direct taxation

- 1.1 The capacity of the EU to tax
- 1.2 The Parent-Subsidiary Directive
- 1.3 The Merger Directive
- 1.4 The Interest & Royalties Directive and the Saving Directive
- 1.5 The Directives on neutral assistance: the future of the EU Direct Tax; proposals for common taxation

#### Theme 2: EU Indirect taxation

- 2.1 General approach to the indirect taxation within the EU: Effects of the indirect taxation in terms of tax revenues for the EU-states and tax pressure for the EU-taxpayers.
- 2.2 Current status of the indirect taxation within the EU: Principles and tax harmonized.
- 2.3 VAT: principles and impact within the EU.
- 2.4 Duties and other indirect taxes.

### AREA 2: TRANSFER-PRICING

<b>Theme 1: Background</b>
<ul style="list-style-type: none"> <li>1.1 Background and main facts to understand transfer pricing rules</li> <li>1.2 Main concepts and objectives sought by transfer pricing rules:</li> <li>1.3 OECD recommendations and EU legislation</li> <li>1.4 Transfer pricing on Treaties to avoid double taxation</li> </ul>
<b>Theme 2: Main concepts</b>
<ul style="list-style-type: none"> <li>2.1 Arm's length principle</li> <li>2.2 Valuation methods</li> <li>2.3 Documentations duties</li> <li>2.4 Primary and secondary adjustments</li> </ul>
<b>AREA 3: International Tax Planning</b>
<b>Theme 1: A general overview</b>
<ul style="list-style-type: none"> <li>1.1 Objective of an international tax planning.</li> <li>1.2. Tax optimization mechanism: a) In host country ( legal vehicle and finance structure ), b) in home country ( deductible charges...), c) Incorporation of conduit companies.</li> <li>1.3. Anti-abuse regulations.</li> </ul>
<b>Theme 2: Investment structures</b>
<ul style="list-style-type: none"> <li>2.1 Holding companies</li> <li>2.2 Equity Vs. Debt: hybrid products</li> <li>2.3 Tax heavens and low-tax jurisdictions</li> </ul>
<b>Theme 3: Analysis of relevant jurisdictions and investment structures</b>
<ul style="list-style-type: none"> <li>3.1 Investments in Asia</li> <li>3.2 Investments in Americas</li> </ul>

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography (Quality prevails over quantity)

#### Text books

De Broe. Luc. (coord.) *International Tax Planning and Prevention of Abuse: A Study Under Domestic Tax Law, Tax Treaties and EC Law in Relation to Conduit and Base Companies*, Ed. IBFD, (2008).

Lieber, Dennis, *European Direct Taxation. Case Law And Regulations*, Wolters Kluwer.

Long, Michael (Ed), *Direct Taxation: Recent ECJ Developments*, Linde Verlag.

Rohatgi, Roy, *Basic International Taxation*, 2nd ed., Ed. Richmond Law & Tax, (2005)

Terra & Wattel ., *European tax Law*, Ed. Kluwer Law International, (2008).

Van Raad, Kees (Ed), *Materials on International & EC Tax Law (2 Vol.)*, International Tax Center Leiden.

VV. AA. *Fundamentals of International Tax Planning*, Rafale Russo (coord.) Ed. IBFD (2007).

*EU VAT Compass 2011/2012*, Ed. IBFD, (2011).

*A guide of the European VAT Directives*, Ed. IBFD (2007), volumes 1, 2, 3 y 4.

*EC Customs Law*, Oxford University press, Oxford (2001).

*Guide to Community Customs Legislation*, Bruylant, Bruxelles (2002)

#### Chapters of books

#### Articles

The fight against tax havens and tax evasion. Progress since the London G20 summit and the challenges

ahead (Jose Luis Escario Díaz-Berrio) (2011)

<http://www.falternativas.org/opex/documentos/documentos-de-trabajo/the-fight-against-tax-havens-and-tax-evasion-progress-since-the-london-g20-summit-and-the-challenges-ahead>

- European Cooperation and Legal Guidelines for an Intra-Community Tax Audit, 2009. (Van der Held /Van Dik)

- Council Adoptes New Directive on Mutual Assistance in Recovery of Tax and Similar Claims  
(*European Taxation*, June 2010) (Vascega/Van Thiel)

#### Websites

- Website of the OECD (Exchange of Information Section)

[http://www.oecd.org/topic/0,3699,en\\_2649\\_33767\\_1\\_1\\_1\\_1\\_37427,00.html](http://www.oecd.org/topic/0,3699,en_2649_33767_1_1_1_1_37427,00.html)

- Website of the European Commission (Taxation and Customs Union)

[http://ec.europa.eu/taxation\\_customs/index\\_en.htm](http://ec.europa.eu/taxation_customs/index_en.htm)

- Website of the Federal Department of Finance of the Swiss Confederation:

<http://www.efd.admin.ch/index.html?lang=en>

[www.oecd.org](http://www.oecd.org)

- Website of the European Union: Taxation and Customs

[http://ec.europa.eu/taxation\\_customs/index\\_en.htm](http://ec.europa.eu/taxation_customs/index_en.htm)

- Website of the European Central Bank

<http://www.ecb.int/home/html/index.en.html>

#### Notes

#### Other material

- OECD Agreement on exchange of information on tax matters:

<http://www.oecd.org/dataoecd/15/43/2082215.pdf>

- OECD Manual on the implementation of exchange of information provisions for tax purposes:

<http://www.oecd.org/dataoecd/16/23/36647823.pdf>

- The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes:

[http://www.oecd.org/site/0,3407,en\\_21571361\\_43854757\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/site/0,3407,en_21571361_43854757_1_1_1_1_1,00.html)

- Convention on Mutual Administrative Assistance in Tax Matters (as amended by the 2010 Protocol), signed by the member States of the Council of Europe and the member countries of the OECD:

<http://www.oecd.org/dataoecd/33/33/47058794.pdf>

- The United Nations Model Tax Convention:

<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan002084.pdf>

- United Nations Model Tax Convention Update:

<http://www.un.org/esa/ffd/tax/sixthsession/UN-ModelTaxConvention.pdf>

- Council Directive 77/799/EEC, of 19 December 1977, concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1977L0799:20070101:EN:PDF>

- Council Directive 76/308/EEC, of 15 March 1976, on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures (codified by the Council Directive 2008/55/EC)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:150:0028:0038:EN:PDF>

- Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003L0048:20070101:EN:PDF>

- Agreements between the European Community and five European countries (the Swiss Confederation, the Principality of Andorra, the Principality of Liechtenstein, the Principality of Monaco and the Republic of San Marino) providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments

<http://www.consilium.europa.eu/showPage.aspx?id=916&lang=en>

- Agreements/arrangements between each of the EU Member States and each of the ten relevant dependent or associated territories of Member States (Guernsey, Isle of Man, Jersey, Netherlands Antilles, Aruba, Anguilla, British Virgin Islands, Cayman Islands, Montserrat and Turks & Caicos)

<http://www.consilium.europa.eu/showPage.aspx?id=916&lang=en>

- Proposal for a Council Directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0727:FIN:EN:PDF>

## TEACHING METHODOLOGY

General methodological aspects of the subject

Contact hours methodology: Activities

Students must prepare the reading material and the assignment before the corresponding session. All sessions will be open for discussion at all times and participation is highly encouraged.

SUMMARY OF STUDENT WORK HOURS		
Activity	Number of class hours	Number of independent study hours
Lecture	12	
Practical class		
Debate		15
In class presentation	15	30
Individual work		30
Work in collaboration		
Evaluation: one minute paper		
Evaluation: class test		
Evaluation: exam	3	30
Evaluation: exam review		
Others		
<b>ECTS Credits:</b>	<b>30 hours (3 Credit)</b>	<b>105</b>

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	Preparing cases individually	Practical cases will be assigned to student who will have to analyse and work on them individually.	15%
Attendance		Full attendance in the classes	10%
Debate	Open discussion of practical exercises	Most of the topics will be discussed with practical exercises which will be very similar to the final exam.	25%
Class presentation			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	Practical exam based on materials reviewed at class.	One whole session will be used for the final exam	50%

Grades
Final grade will be the results of the parameter above mentioned.