

**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	2018-19
ECTS Credits	4
Department	Law
Area	Law
Teaching staff	Eduardo Gracia Espinar and Pablo A. Hernández González-Barreda

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## SPECIFIC DATA ON THE SUBJECT

<b>Pre-requisites</b>
None
<b>Contribution of the degree to the professional profile</b>
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>
GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 6: Team work skills GC 7: Ability to work in an international context GC 8: Critical appraisal skills GC 10: Ability to develop autonomous learning skills GC 11:: Concern for quality GC 12: Ability to apply theoretical knowledge into practice
<b>Specific competences of the subject</b>
SC 4 Mastering the main rules of EU law and international law that are relevant to international business development SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization

## THEMATIC AREA AND CONTENT

<b>AREA 1: INTERNATIONAL TAX LAW AND MULTINATIONAL ENTERPRISES TAX STRUCTURING</b>
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<b>Theme 1: Preliminary remarks: context and frame</b>
<ul style="list-style-type: none"> <li>1.1 Structure of contemporary tax systems: taxation of individuals and corporations</li> <li>1.2. Multiple Taxation: concept and consequences for international trade</li> <li>1.3 Mechanisms to avoid multiple taxation</li> <li>1.5 Sources of International and European Tax Law: hierarchy, interaction and effects.</li> </ul>
<b>Theme 2: International Tax Rules</b>
<ul style="list-style-type: none"> <li>2.1 Concept, object, purpose and principles of Tax Conventions</li> <li>2.2 Interpretation and application of Tax Treaties</li> <li>2.3 The OECD and the United Nations Model Tax Conventions and Commentaries: role, effects and impact on the network of treaties.</li> <li>2.4 The OECD Model Tax Convention and the United Nations Model Tax Convention <ul style="list-style-type: none"> <li>2.4.1 Scope of application</li> <li>2.4.2 Allocation rules</li> <li>2.4.3 Rules for Elimination of multiple taxation</li> </ul> </li> <li>2.5 Mutual Agreement Procedures</li> <li>2.6. Abuse of Tax Treaties, Tax Havens and Harmful Tax Competition</li> </ul>
<b>Theme 3: International Tax Planning and MNEs Structuring: some examples</b>
<ul style="list-style-type: none"> <li>3.1 Treaty shopping: Conduit Companies, Base Companies and intermediaries</li> <li>3.2. Hybrid entities and hybrid financing</li> <li>3.3 Artificial avoidance of Permanent Establishment status</li> <li>3.4 Transfer pricing rules</li> </ul>
<b>AREA 2: EUROPEAN UNION TAX LAW</b>
<b>Theme 1: Preliminary remarks: context and frame</b>
<ul style="list-style-type: none"> <li>1.1 European Tax Law: sources and principles</li> <li>1.2 European Union competences in taxation: subsidiarity and proportionality</li> <li>1.3 Interaction between International Tax Law, European Tax Law and domestic law.</li> <li>1.4 The Role of the Internal Market: positive and negative harmonisation</li> </ul>
<b>Theme 2: Direct Taxation</b>
<ul style="list-style-type: none"> <li>3.1 Primary Law Tax Rules and Negative Harmonization <ul style="list-style-type: none"> <li>3.1.1 Primary Law Tax rules</li> <li>3.1.2 Primary Law general rules with impact on Taxation</li> <li>3.1.3 Control on the application of EU Law</li> </ul> </li> </ul>

3.1.4 The ECJ reasoning on the impact of freedoms on taxation: Rule of reason and proportionality

3.1.5 State Aid and Taxation

3.1.5.1 The central role of the European Commission

3.1.5.2 The ECJ doctrine on State Aid

**3.2 Secondary Law Tax Rules**

3.2.1 Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

3.2.2 Directive 90/434/EEC on a common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States

3.2.3 Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States

### Theme 3: Tax Planning for investments in and within the European Union

**4.1** Balancing The freedoms and tax planning: third states

**4.2** Fill the gaps: Interaction of Tax Treaties and EU Tax Law

**4.3** Anti abuse doctrines and rules in the European Union

4.3.1. CJEU Case Law on anti-avoidance

4.3.2. Directive (EU) 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market and Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries

### AREA 3: GLOBAL CONTEXT: Administrative cooperation actions taken by supranational bodies outside the EU and certain third countries governments

#### Theme 1: G-20 MEETINGS: Endorsement of OECD works

**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)
- 1.8 Approval by G-20 leaders of the OECD's three objective criteria for identifying jurisdictions that fail to cooperate with internationally adopted tax transparency standards (Hangzhou summit, September 2016)
- 1.9 The Action Plan on Base Erosion and Profit Shifting (BEPS): Action 5 ("Counter harmful tax practices more effectively, taking into account transparency and substance") and Action 13 ("Transfer pricing documentation and Country-by-Country Reporting").

## Theme 2: MAIN ACTIONS ENACTED BY USA AND SWITZERLAND

### 2.1 USA:

- 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).
- 4.3 Luxembourg Leaks (or LuxLeaks)
- 4.4 European Human Rights Court Decision, of 22 December 2015, on UBS data transfer.
- 4.5 Panama Papers
- 4.6 Football Leaks
- 4.7 Paradise Papers

## AREA 4: ADMINISTRATIVE COOPERATION IN EUROPEAN UNION LAW

### Theme 1: Legislation in force

## 1.1 Introduction

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

1.2.1 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

1.2.2 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.

1.2.3 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

1.2.4 Council Directive 2015/2376/EU, of 8 December 2015, amending Directive 2011/16/EU as regards mandatory automatic information exchange on tax rulings

1.2.5 Council Directive 2016/881/EU of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

1.2.6 Council Directive 2016/2258/EU of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities

1.2.7 Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements

1.2.8 Judgment of the European Court of Justice of 16 May 2017 on the concept of "foreseeable relevance" of the information requested (Berlioz Case, C-682/15)

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

1.3.1 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

## 1.4 Other Agreements

1.4.1 New EU-Switzerland Agreement on automatic exchange of financial account information

1.4.2 New EU-San Marino Tax Transparency Agreement

1.4.3 New EU-Liechtenstein Tax Transparency Agreement

1.4.4 New EU-Andorra Tax Transparency Agreement

1.4.5 New EU-Monaco Tax Transparency Agreement

1.4.6 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)

### 1.5 Other initiatives

1.5.1 Establishment of an EU list of non-cooperative jurisdictions for tax purposes.

## AREA 5: RECENT DEVELOPMENTS IN INTERNATIONAL TAX POLICY

### Theme 1: The Global Reaction

1.1 Tax rules and context: historical development

1.2 Global context:

1.2.1. Action Plan on Base Erosion and Profit Shifting

1.2.2 Proposals around the Globe: Digital PE, Digital VAT and others.

### Theme 2: The European Union reaction

2.1 The European Union Anti Tax Avoidance Package

2.2 Recent State Aid Procedures

2.3 Other Proposals: the CCTB and the Financial Transaction Tax

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography

#### Text books

##### Basic:

- Michael Lang - Introduction to the Law of Double Taxation Conventions, Linde, Vienna, 2<sup>nd</sup> Edition 2014.
- Michael Lang et al - Introduction to European Tax Law on Direct Taxation, Linde, Vienna, 3d Edition 2013.
- Marjana Helminen – European Tax Law: Direct Taxation, IBFD, Amsterdam, 2015.

##### Advanced:

- Ekkehart Reimer (Ed.) - Klaus Vogel on Double Taxation Conventions, Fourth Edition,

Wolters Kluwer, 2015.

- Philip Baker – Double Taxation Conventions, 3d Edition, Sweet and Maxwell, 2015-loose leaf.
- Ben Terra and Peter Wattel – European Tax Law, 6<sup>th</sup> Edition, Wolters Kluwer, 2012.
- Michael Lang (Ed): Base Erosion and Profit Shifting (BEPS), Linde, 2016.
- Luc de Broe: International Tax Planning and Prevention of Abuse, IBFD, 2008.
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- Almudí Cid, J.M., Ferreras Gutiérrez, J.A., Hernández González-Barreda, P.A.: El plan de Acción sobre Erosión de Bases Imponibles y Traslado de Beneficios, Aranzadi, Cizur Menor, 2017.
- Calderón Carrero, J. M.; Ruíz García, J. R. (eds.), Comentarios a los Convenios para evitar la doble imposición y prevenir la evasión fiscal concluidos por España, Fundación Pedro Barrié de la Maza, 2004.

**Specific:**

- Lang, M., The application of the OECD Model Tax Convention to partnerships: a critical analysis of the report prepared by the OECD Committee on Fiscal Affairs, Kluwer-Linde, The Hague- Vienna, 2000.
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- AULT, H. J., "The Role of the OECD Commentaries in the Interpretation of Tax Treaties", Intertax, n.o 4, 1994, pp. 144-148



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- AVERY JONES ET AL, J. F., "Characterization of Other States' Partnerships for Income Tax", Bulletin, vol. 56, n.o 7, 2002, pp. 288-320.
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- VAN DER BRUGGEN, E., "Unless the Vienna Convention Otherwise Requires: Notes on the Relationship between Article 3(2) of the OECD Model Tax Convention and Articles 31 and 32 of the Vienna Convention on the Law of Treaties", European Taxation, vol. 43, n.o 5, 2003, pp. 142-156.
- BUZANICH, H., "A Comparison Between the U.S. and OECD Approaches to Hybrid Entities", Tax Notes International, 2004, pp. 71-94.
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- "FATCA and CRS: The end of an era" (Sofia Stavridi) (*International Tax Review, 2016*)
  
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[https://eur-lex.europa.eu/summary/chapter/taxation.html?root\\_default=SUM\\_1\\_CODED%3D21](https://eur-lex.europa.eu/summary/chapter/taxation.html?root_default=SUM_1_CODED%3D21)
- OECD Taxes:  
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<https://www.efd.admin.ch/efd/en/home.html?organization=601&startDate=01.06.2015>
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Notes
Other materials
<ul style="list-style-type: none"> <li>- OECD Model Tax Convention 2017: <a href="http://www.oecd.org/ctp/treaties/model-tax-convention-on-income-and-on-capital-condensed-version-20745419.htm">http://www.oecd.org/ctp/treaties/model-tax-convention-on-income-and-on-capital-condensed-version-20745419.htm</a></li> <li>- OECD BEPS Action Plan Final Reports: <a href="http://www.oecd.org/ctp/beps-2015-final-reports.htm">http://www.oecd.org/ctp/beps-2015-final-reports.htm</a></li> <li>- Update to Article 26 of the OECD Model Tax Convention and its Commentary (17 July 2012): <a href="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</a></li> <li>- OECD Agreement on exchange of information on tax matters: <a href="http://www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf">http://www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf</a></li> <li>- OECD Manual on the implementation of exchange of information provisions for tax purposes: <a href="http://www.oecd.org/dataoecd/16/23/36647823.pdf">http://www.oecd.org/dataoecd/16/23/36647823.pdf</a></li> <li>- 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: <a href="http://www.oecd.org/dataoecd/33/33/47058794.pdf">http://www.oecd.org/dataoecd/33/33/47058794.pdf</a></li> <li>- The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes: <a href="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</a></li> <li>- 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). <a href="http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/">http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/</a></li> <li>- G20 leaders' communique, Hangzhou summit, 4-5 September 2016 <a href="http://www.consilium.europa.eu/en/meetings/international-summit/2016/09/Leaders-CommuniqueHangzhouSummit-final_pdf/">http://www.consilium.europa.eu/en/meetings/international-summit/2016/09/Leaders-CommuniqueHangzhouSummit-final_pdf/</a></li> <li>- Action 5 BEPS: 2015 Final Report <a href="http://www.oecd.org/tax/countering-harmful-tax-practices-more-effectively-taking-into-account-transparency-and-substance-action-5-2015-final-report-9789264241190-en.htm">http://www.oecd.org/tax/countering-harmful-tax-practices-more-effectively-taking-into-account-transparency-and-substance-action-5-2015-final-report-9789264241190-en.htm</a></li> <li>- Action 13 BEPS: 2015 Final Report <a href="http://www.oecd.org/tax/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report-9789264241480-en.htm">http://www.oecd.org/tax/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report-9789264241480-en.htm</a></li> <li>- Report on international financial and tax matters 2017 (Swiss Confederation. Federal Department of</li> </ul>

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- Switzerland seeks to prevent Banks from accepting untaxed assets with enhanced due diligence requirements (19.12.2012)  
<http://www.news.admin.ch/message/index.html?lang=en&msg-id=47291>
  - 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>
  - 2011 US Offshore Voluntary Disclosure Initiative. Frequently Asked Questions and Answers  
<https://www.irs.gov/individuals/international-taxpayers/offshore-voluntary-disclosure-program-frequently-asked-questions-and-answers>
  - 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>
  - New EU-Switzerland Agreement on automatic exchange of financial account information  
<http://data.consilium.europa.eu/doc/document/ST-8297-2015-INIT/en/pdf>
  - New EU-San Marino Tax Transparency Agreement (Press Release 8 December 2015)  
[http://europa.eu/rapid/press-release\\_STATEMENT-15-6275\\_en.htm?locale=en](http://europa.eu/rapid/press-release_STATEMENT-15-6275_en.htm?locale=en)
  - New EU-Liechtenstein Tax Transparency Agreement (Press Release 28 October 2015)  
[http://europa.eu/rapid/press-release\\_IP-15-5929\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5929_en.htm)
  - EU and Andorra finalise negotiations on new tax transparency agreement (Press Release 4 November 2015)  
[http://europa.eu/rapid/press-release\\_IP-15-5987\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5987_en.htm)
  - 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 (Consolidated Text dated 1 January 2018)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011L0016-20180101&rid=1>  
(Link to the EU Commission website containing information on this Directive and its amendments:  
[http://ec.europa.eu/taxation\\_customs/business/tax-cooperation-control/administrative-](http://ec.europa.eu/taxation_customs/business/tax-cooperation-control/administrative-)

[cooperation/enhanced-administrative-cooperation-field-direct-taxation\\_en#by\\_country](#))

- 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)

- Council Directive 2015/2376/EU, of 8 December 2015, amending Directive 2011/16/EU as regards mandatory automatic information exchange on tax rulings

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_332\\_R\\_0001&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_332_R_0001&from=ES)

- Council Directive 2016/881/EU of 25 May 2016 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=CELEX:32016L0881&from=ES>

- Council Directive 2016/2258/EU of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L2258&from=EN>

- Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0822&from=EN>

- Judgment of the European Court of Justice, of 16 May 2017, on Articles 1 and 5 of the Council Directive 2011/16/EU and, in particular, on the concept of 'foreseeable relevance' of the information requested (Berlioz Investment Fund, Case C-682/15)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=190721&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=386553>

- 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>
- Communication from the Commission to the European Parliament and the Council, of 18 March 2015, on tax transparency to fight tax evasion and avoidance  
[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/company\\_tax/transparency/com\\_2015\\_136\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/transparency/com_2015_136_en.pdf)

- Communication from the Commission to the European Parliament and the Council, of 17 June 2015, on a Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action  
[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/company\\_tax/fairer\\_corporate\\_taxation/com\\_2015\\_302\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/fairer_corporate_taxation/com_2015_302_en.pdf)
- 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>
- EU publishes the first ever list of non-cooperative tax jurisdictions (5 December 2017)  
[http://europa.eu/rapid/press-release\\_IP-17-5121\\_en.htm](http://europa.eu/rapid/press-release_IP-17-5121_en.htm)
- Eight jurisdictions removed from EU list (23 January 2018)  
<http://www.consilium.europa.eu/en/press/press-releases/2018/01/23/taxation-eight-jurisdictions-removed-from-eu-list/>
- Three jurisdictions removed and three jurisdictions added to EU list of non-cooperative jurisdictions (13 March 2018)  
<http://www.consilium.europa.eu/en/press/press-releases/2018/03/13/taxation-3-jurisdictions-removed-3-added-to-eu-list-of-non-cooperative-jurisdictions/pdf>
- Two jurisdictions removed from EU list of non-cooperative jurisdictions (25 May 2018)  
<http://www.consilium.europa.eu/en/press/press-releases/2018/05/25/taxation-2-jurisdictions-removed-from-eu-list-of-non-cooperative-jurisdictions/>
- Press release (10.11.2016): Commission launches public consultation on future rules to deter promoters of aggressive tax planning schemes  
[http://europa.eu/rapid/press-release\\_IP-16-3618\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3618_en.htm)
- OECD Base Erosion and Profit Shifting Action Plan and final reports  
<http://www.oecd.org/ctp/beps-actions.htm>
- European Union Directorate General for Taxation  
[https://ec.europa.eu/taxation\\_customs/home\\_en](https://ec.europa.eu/taxation_customs/home_en)
- State Aid Procedures  
[http://ec.europa.eu/competition/state\\_aid/overview/index\\_en.html](http://ec.europa.eu/competition/state_aid/overview/index_en.html)



- Tax Rulings State Aid Procedures

[http://ec.europa.eu/competition/state\\_aid/tax\\_rulings/index\\_en.html](http://ec.europa.eu/competition/state_aid/tax_rulings/index_en.html)

- European Union Anti Tax Avoidance Package

[http://ec.europa.eu/taxation\\_customs/business/company-tax/anti-tax-avoidance-package\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/anti-tax-avoidance-package_en)

- European Union VAT website

[https://ec.europa.eu/taxation\\_customs/business/vat\\_en](https://ec.europa.eu/taxation_customs/business/vat_en)

- VAT Directive

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006L0112>

- European Union Custom Duties website

[https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties_en)

- Customs legislation

[https://ec.europa.eu/taxation\\_customs/legislation/tax-customs-legislation/customs-legislation\\_en](https://ec.europa.eu/taxation_customs/legislation/tax-customs-legislation/customs-legislation_en)

- Council Regulation 2913/92 establishing the Community Customs Code

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992R2913:20070101:EN:PDF>

- Commission Regulation No 2454/93 laying down provision for the implementation of Council Regulation no 2913/92 establishing the Community Customs Code

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20130131:EN:PDF>

- Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0083:en:HTML>

- Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:176:0024:0036:EN:PDF>

- Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:283:0051:0070:EN:PDF>

- Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008L0007>

- Merger Directive history

[http://ec.europa.eu/taxation\\_customs/business/company-tax/merger-directive\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/merger-directive_en)

- Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE

between Member States

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0133>

- Parent subsidiary Directive history

[http://ec.europa.eu/taxation\\_customs/business/company-tax/parent-companies-their-subsiidiaries-eu-union\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/parent-companies-their-subsiidiaries-eu-union_en)

- Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32011L0096>

- Interest Royalties Directive History

[http://ec.europa.eu/taxation\\_customs/business/company-tax/taxation-crossborder-interest-royalty-payments-eu-union\\_en](http://ec.europa.eu/taxation_customs/business/company-tax/taxation-crossborder-interest-royalty-payments-eu-union_en)

- Interest and Royalties Directive

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0049:en:HTML>

- Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (ATAD)

[http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2016.193.01.0001.01.ENG&toc=OJ:L:2016:193:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.193.01.0001.01.ENG&toc=OJ:L:2016:193:TOC)

- Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017L0952>

- OECD Tax website

<http://www.oecd.org/tax/>

- Transfer Pricing Guidelines

<http://www.oecd.org/tax/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

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

<http://www.oecd.org/tax/transparency/>

- History of Tax Treaties Database

<http://www.taxtreatieshistory.org/>

- An Introduction to Tax Treaties

[http://www.un.org/esa/ffd/wp-content/uploads/2015/10/TT\\_Introduction\\_Eng.pdf](http://www.un.org/esa/ffd/wp-content/uploads/2015/10/TT_Introduction_Eng.pdf)

- United Nations Model Tax Treaty

[http://www.un.org/esa/ffd/documents/UN\\_Model\\_2011\\_Update.pdf](http://www.un.org/esa/ffd/documents/UN_Model_2011_Update.pdf)

- United Nations Committee of Experts on International Cooperation in Tax Matters

<http://www.un.org/esa/ffd/tax/index.htm>

- European Union Taxation of the financial sector

[http://ec.europa.eu/taxation\\_customs/taxation-financial-sector\\_en](http://ec.europa.eu/taxation_customs/taxation-financial-sector_en)

- Common Consolidated Corporate Tax Base Proposal

[https://ec.europa.eu/taxation\\_customs/business/company-tax/common-consolidated-corporate-tax-base-ccctb\\_en](https://ec.europa.eu/taxation_customs/business/company-tax/common-consolidated-corporate-tax-base-ccctb_en)

## 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.

For the sessions on substantive law, Students will be asked to bring to the sessions a copy of the relevant legislation to be discussed (OECD Model Tax Convention and Commentary, Treaty of Functioning of the European Union and Treaty of the European Union, Interest and Royalties Directive, Parent Subsidiary Directive, Anti Tax Avoidance Directive). The professor will announce in advance the required legislation.

For the sessions on cooperation and administrative matters, Students must bring to the sessions a copy of the Consolidated Text of the Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, together with a copy of the Directive (EU) 2018/822 of 25 May 2018.

#### Independent study methodology: Activities

Students are expected to come to class prepared, having read all assigned material and having completed all assigned exercises.

## SUMMARY OF STUDENT WORK HOURS

Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	26	40	66
Practical class			
Debate	2		2

In class presentation	4	30	34
Individual work			
Work in collaboration		10	10
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	4	10	14
Evaluation: exam review			
Others			
<b>ECTS Credits:</b>	<b>40 hours (4 Credit)</b>	<b>90</b>	<b>130</b>

### GRADE EVALUATION AND CRITERIA – FINAL MARK Summary

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work			
Work in collaboration		For the part on substantive rules students must write a paper in groups of three students.	20%
Debate			16,25%
Class presentation			3,75%
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam (final)			50%
Attendance			10%

**ANNEX: PROFESSORS GRADING**

**GRADE EVALUATION AND CRITERIA (Prof. Eduardo Gracia – 1 ECTS)**

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work			
Work in collaboration	GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 6: Team work skills GC 7: Ability to work in an international context GC 8: Critical appraisal skills GC 10: Ability to develop autonomous learning skills GC 12: Ability to apply theoretical knowledge into practice	Presentation prepared jointly by each group of students on the topic assigned in session 1.	20%
Debate	GC 1: Analysis and synthesis abilities	Proactive participation of the students in all the sessions raising questions and contributing with their views on all the	5%

	GC 3: Ability to manage information GC 6: Team work skills	topics raised in the course of the four sessions.	
Class presentation	GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 6: Team work skills GC 7: Ability to work in an international context GC 8: Critical appraisal skills  SC 4 Mastering the main rules of EU law and international law that are relevant to international business development	Each member of each group will individually present the part of the topic assigned to him/her.	15%
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam (final)	GC 1: Analysis and synthesis abilities	Written exam consisting of a seven-page double-sided summary of EU legislation and jurisprudence on mutual	50%

	<p>GC 3: Ability to manage information</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> <p>SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization</p>	<p>assistance. Students will have one week to submit the summary as from the last session.</p>	
Attendance			10%



**GRADE EVALUATION AND CRITERIA (Prof. Pablo Hernández – 4 ECTS)**

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work			
Work in collaboration	GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 6: Team work skills GC 7: Ability to work in an international context GC 8: Critical appraisal skills GC 12: Ability to apply theoretical knowledge into practice  SC 4 Mastering the main rules of EU law and international law that are relevant to	For the part on substantive rules students must write a paper in groups of three students.	20%

	international business development		
Debate	GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 6: Team work skills GC 8: Critical appraisal skills GC 10: Ability to develop autonomous learning skills GC 12: Ability to apply theoretical knowledge into practice		20%
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam (final)	GC 1: Analysis and synthesis abilities GC 3: Ability to manage information GC 8: Critical appraisal skills		50%

	<p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> <p>SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization</p>		
Attendance			10%