Universidad de Navarra

EU Tax Law (MUAF)
Guía docente 2026-27

PRESENTACIÓN

- **Subject:** EU Tax Law
- **Topic:** International and EU Taxation
- **Grade and Faculty**: Máster en Asesoría Fiscal (MUAF), Facultad de Derecho.
- **Duration**: 2º trimestre
- **N. of credits ECTS**: 1
- **N. of Sessions:** 8 sesiones
- **Professor:** Ana Paula Dourado
- **Grade**: Máster en Asesoría Fiscal
- **Type of subject**: Compulsory.

OBJETIVOS y COMPETENCIAS

Objectives

The EU is a key player in international relations, but remains a paradox in many respects. Since the creation of the European Economic Community (currently, the European Union) the cooperation and adoption of common criteria between the Commission and the Member States has played an important role in economic and monetary policy, but a peripheral one regarding tax policy. In this respect, the lack of consensus on taxation has been evident for decades.

The course aims primarily to provide an entry point into the study of the EU Tax law. The course is divided into two parts (eight sessions). After an introduction of the source of EU Tax Law and the nature of the EU law system, across the first part we will analyze the EU freedoms (freedom of establishment, freedom of movement of legal persons and individuals, freedom to provide /acquire services and freedoms of movement of capital) and the ECJ Cases with regard the infringement of theses freedoms. The second part examines the EU Direct tax Directives that affects most of the cross border relations between companies located in different member states, as well as the impact of unlawful aid in fiscal cases according with the state aid regulation.

PROGRAMA

FIRST PART

The sources of EU law, relevant for direct & indirect taxation

Session 1:

A. The Sources of the EU tax law:

(1) Primary Law.

(2) Secondary Law.

B. The nature of the EU law system:

(1) Direct effect of the EU tax law.

(2) Supremacy of the EU Law.

(3) The enforcement of the EU Law.

(4) Effectiveness of EU law: Breach of the EU tax law.

Tax Issues in connection with the Treaty's freedoms:

Session 2:

(A) General Overview of the Treaty Freedoms and ECJ justification for the infringement of the Freedoms.

a) Tax Cohesion

b) Territoriality

c) Tax Avoidance

(B) Free movement of workers: Article 45 to 48 TFUE

Session 3 and 4:

Right of establishment and movement of legal persons.

(A) Place of head office issues.

Readings recommended: Daily Mail (C-81/87, 27 September 1988) and Centros (C-212/97, 9 March 1999).

(B) Secondary establishment

Readings recommended: Saint Gobain (C-307/97, 21 September 1999), Lankorst-Hohorst (C-324 /00, 12 December 2002), Marks & Spencer (C-446/03, 13 December 2005), Cadbury Schweppes UK – Controlled foreign corporations (C-196/04, 19 December 2006).

Freedom to provide or to acquire (especially financial) services (Article 56 to 62 TFUE). Where is the demarcation line between freedom of services and freedom of establishment?

Readings recommended: Jyske Bank Gibraltar LTD (C- 212/11, 2013)

Free movement of capital and external relations. Tax implications (selected issues). Upgrading of the freedom of movement of capital . Article 63 to 66 TFUE.

Readings recommended: Santander asset management SGIIC SA (C-338/11 to C-346/11, 2012)

SECOND PART

EU Direct Tax Directives:

Session 5:

The Parent-Subsidiary Directive of 23 July 1990 (90/435/EC) and latter amendments of the Directive

Session 6:

The Merger Directive of 23 July 1990 (90/434/ EEC) amended by 2005/19/CE

Session 7 :

The Interest and Royalties Directive of 3 June 2003, amended by Directive 2003/49/EC

Fiscal State Aid:

Session 8:

- Notion of fiscal state aid
- Notion of selectivity
- State aid and tax rulings

Readings recommended: Spanish goodwill (C 311/21, 2007); Tax Lease(276/03), Apple (369/04, 2016), Starbucks(C 460/11, 2014).

ACTIVIDADES FORMATIVAS

- Esta información estará disponible para finales de agosto

EVALUACIÓN

Assessment

Description of the evaluation system according to the following table:

Participation in class and preparation of the 3 afore-mentioned cases	10%
Assessment of the analysis of the cases allocated in the first part	50%
Assessment of the exercise carried out in the second part of the Seminar	40%

HORARIOS DE ATENCIÓN

Se concretará directamente con el profesor.

BIBLIOGRAFÍA

(1) Michael Lang, Pasquale Pistone, Josef Schuch and Claus Staringer, *Introduction to the European Tax Law, Direct taxation*(Spiramus press), (2008). Localízalo en la Biblioteca

(2) Ana Paula Dourado “Aggressive Tax Planning in EU Law and in the light of BEPS - The EC Recommendation on Aggressive Tax Planning and BEPS Actions 2 and 6”, Intertax, vol.43, n.º 1, 201, https://www.cideeff.pt/xms/files/Artigos_APD/Intertax__n._1__2015.pdf

(3) Ana Paula Dourado "The EU Free Movement of Capital and Third Countries: Recent Developments", Intertax, 45, nº3, 2017, pp. 192-204, https://www.cideeff.pt/xms/files/01_WHO_WE_ARE/MEMBERS/Prof_Dra_Ana_Paula_Dourado/The_EU_Free_Movement_of_Capital_and_Third_Countries_Recent_Developments_Intertax_45_n_192-204.pdf

WEBPAGES

Access to the EU case law: in English and Spanish:



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http://curia.europa.eu/juris/recherche.jsf?cid=139690