

LW6143E: INTERNATIONAL TAXATION

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

International Taxation

Subject Code

LW - Law

Course Number

6143E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

In recent years, the international tax planning strategies of multinationals have become a source of - often heated - debate. This course describes the rules and principles that together form the manner in which countries assert and limit their

jurisdiction to tax cross-border flows of income and capital gains. Governments, who have traditionally been very protective of their right to tax whatever amounts they think fit, are increasingly seeing the practical need to cooperate with each other. This ensures that they continue to have solid international relations; their economies benefit from overseas investment; and they continue to collect what is considered to be a 'fair amount of tax'. This change in approach has been evidenced by, inter alia, initiatives that began with providing relief from double taxation. These initiatives have since moved on to exchanging taxpayer information with revenue authorities of other jurisdictions, and even to the point where governments acknowledge a need to assist other revenue authorities by collecting tax revenue on their behalf. The teaching of this course has a sensibility towards practice but its aim is to bring both practical knowledge and the best scholarship to bear in the class-room. Despite its great interest to the world of international practice, the subject offers a rich and intellectually stimulating area of concentration for any international lawyer, international economic lawyer, transnational lawyer and international disputes lawyer. There is a complex interplay of contractual, regulatory and treaty issues typical of modern transnational lawyering.

Various teaching modes will be employed and combined during the course. These range from a straightforward lecture format (where the course teacher fill gaps in the reading, provides an overview or summarises a complex point) to more active seminar-style discussion, interactive dialogue and semi-Socratic teaching. The focus will be on practical, procedural and tactical tax issues that arise in contractual, treaty-based and other forms of tax-related arbitration.

This course is aligned with the following programme learning outcomes:

- To develop a deep and achieving learning approach that is rich in critical thought and in applied knowledge to the study of international taxation and economic law, practice, and policy through its norms, processes, and institutions.
- To relate the processes of economic and legal globalization to the trans-national business and regulatory experience and political, social, cultural, and systematical conditions of China and the rest of East Asia, with Hong Kong as a regional centre for finance and trade.
- To optimize the legal professional skills necessary for international commercial practice, including creative principles-problem-solving techniques; original, significant, and rigorous legal research; and plain and reasoned expression of legal terms.

To instill a commitment to personal and professional self-development, ethical conduct, and social responsibility that is appropriate and adapted to international economic activities and relations.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if DEC-A1 app.)		DEC-A2	DEC-A3
1	Identify, describe and analyse the basic normative and institutional components of international legal order with a special emphasis on the functions of international organizations and international dispute resolution mechanisms.			x	x
2	Critically analyse the working of international law and institutions within the national legal orders and the response of the national legal orders to the demands of globalization of legal problems.			x	x
3	Apply and analyze critically the national and international legal framework for dealing with transnational problems in China and East Asia.		x	x	x
4	Have the skills to carry out further independent research in the field.		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

	LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	The course leader will present and explain the law on the topics listed below in the syllabus.	1	2
2	Interactive class discussion	Students will be engaged in debates to develop a critical view on international taxation problems.	2, 3	1

Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Class participation [including mainly class attendance, class discussion, concentration in the classes, and oral presentation (if presentation tasks are assigned by the instructor)]	1, 2, 3	20	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

20

Examination (%)

80

Examination Duration (Hours)

3

Additional Information for ATs

The course leader will announce whether the examination will be closed book or open book. The use of Generative AI tools is not allowed.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in the final examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in the final examination and an overall mark of 40% in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programme and the Internet. Students will have access to the text of CISG and other statutory materials provided.

Assessment Rubrics (AR)

Assessment Task

Class Participation (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

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Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

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Part III Other Information

Keyword Syllabus

Background; forms; banking; telecoms; trade; E-business; mining and petroleum; logistics; mergers; acquisitions; environment; energy; commerce; government; sports; entertainment

Detailed Syllabus

Part 1 - The Foundations of international tax law

Week 1 - Introduction: Is there an international tax regime? Is it part of international law?

Week 2 - International tax treaties

Week 3 - Jurisdiction to tax

Week 4 - Sourcing income and deductions

Part 2 – Taxation Rights and Obligations

Week 5 - Taxation of nonresidents: Investment income

Week 6 - Taxation of nonresidents: Business income

Week 7 - Revision class

Week 8 - Transfer pricing

Week 9 - Taxation of residents: Investment income

Week 10 - Taxation of residents: Business income

Part 3 – Trends in international tax law

Week 11 - Hong Kong and the tax treaty network

Week 12 - Tax and trade and Investment (Treaties overlap and disputes strategies)

Week 13 - Tax competition, tax arbitrage, and the future of the international tax regime

Reading List

Compulsory Readings

Title	
1	Reuven S. Avi-Yonah, Advanced Introduction to International Tax Law Second Edition (Edward Elgar, 2019) 192.

Additional Readings

Title	
1	You may find it advantageous to obtain a copy of: - Elli Louka, <i>The Global Economic Order: The International Law and Politics of the Financial and Monetary System</i> (Edward Elgar, 2020) 416. - Jonathan Mitchie, <i>Advanced Introduction to Globalisation</i> (Edward Elgar, 2017) 160. - Christian Tietje and Alan Brouder, <i>Handbook of Transnational Economic Governance Regimes</i> (Brill, 2009) 1081. - Peer Zumbansen, <i>The Many Lives of Transnational Law: Critical Engagements with Jessup's Bold Proposal</i> (Cambridge University Press, 2020) 520. In addition, knowledge of current legal, social and economic events will play a leading role in our discussions of transnational economic problems. Discussions are predicated on an assumption of familiarity with the assigned materials - all readings should therefore be completed before the relevant class session. - Students will be expected to read the international section of a reputable national newspaper (Financial Times and International Herald Tribune are recommended) in preparing for weekly classes. - Students should subscribe to the Social Sciences Research Network (SSRN) (http://hq.ssrn.com/login/pubsiginjoin.cfm) in order to access (for free) a wealth of articles and book chapters. In addition to these, you may also need to regularly consult some of the main transnational law reports and journals: (PekingUTLR)Peking University Transnational Law Review (CJTL) Columbia Journal of Transnational Law (JTLP)Journal of Transnational Law & Policy (GLJ)German Law Journal (HTEGR) Handbook of Transnational Economic Governance Regimes (RGDIP)Revue Générale de Droit International Public (in French/English) (JIT)Journal of International Taxation (JIEL) Journal of International Economic Law (JWT) Journal of World Trade (STLR) Suffolk Transnational Law Review (TDM) Transnational Dispute Management (TELC pp) Policy Papers on Transnational Economic Law (Transnational Economic Law Research Center (TELC) Universität Halle-Wittenberg) (TELC Ess) Essays on Transnational Economic Law (Transnational Economic Law Research Center (TELC) Universität Halle-Wittenberg) (TLCP) Transnational Law & Contemporary Problems (TLT) Transnational Legal Theory (VTR)Virginia Tax Review (VJTL) Vanderbilt Journal of Transnational Law (WTR) World Trade Review Trans-Leg Transnational Law free research and codification platform Main research centers in the field of transnational regulation and dispute resolution - Peking University School of Transnational Law (STL) - New York University - Center for Transnational Litigation and Commercial Law (CfTLCL) - Center for Transnational Legal Studies (CTLS), Faculty of Law, Georgetown University (USA) - Transnational Economic Law Research Center (TELC), Faculty of Law, Martin-Luther-Universität Halle-Wittenberg (Germany) - Institute of Research on the Evolution of Transnational Activities Environment (IREENAT), Faculty of Law, University of Lille II (France) - Transnational Law Project (TLP-LSE), Department of Law, London School of Economics (United Kingdom) - Center of Transnational Law (CTL), Faculty of Law, University of Geneva (Switzerland) - International and Transnational Law Center (ITLC), Faculty of Law, University of Montreal (Canada) - Duke-Geneva Institute in Transnational Law (DGITL)
2	Elli Louka, <i>The Global Economic Order: The International Law and Politics of the Financial and Monetary System</i> (Edward Elgar, 2020) 416.
3	Jonathan Mitchie, <i>Advanced Introduction to Globalisation</i> (Edward Elgar, 2017) 160.
4	Christian Tietje and Alan Brouder, <i>Handbook of Transnational Economic Governance Regimes</i> (Brill, 2009) 1081.
5	Peer Zumbansen, <i>The Many Lives of Transnational Law: Critical Engagements with Jessup's Bold Proposal</i> (Cambridge University Press, 2020) 520.
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8	Students should subscribe to the Social Sciences Research Network (SSRN) (http://hq.ssrn.com/login/pubsiginjoin.cfm) in order to access (for free) a wealth of articles and book chapters.
9	In addition to these, you may also need to regularly consult some of the main transnational law reports and journals:
10	(PekingUTLR) Peking University Transnational Law Review
11	(CJTL) Columbia Journal of Transnational Law
12	(JTLP) Journal of Transnational Law & Policy
13	(GLJ) German Law Journal
14	(HTEGR) Handbook of Transnational Economic Governance Regimes

15	(RGDIP) Revue Générale de Droit International Public (in French/English)
16	(JIT) Journal of International Taxation
17	(JIEL) Journal of International Economic Law
18	(JWT) Journal of World Trade
19	(STLR) Suffolk Transnational Law Review
20	(TDM) Transnational Dispute Management
21	(TELC pp) Policy Papers on Transnational Economic Law (Transnational Economic Law Research Center (TELC) Universität Halle-Wittenberg)
22	(TELC Ess) Essays on Transnational Economic Law (Transnational Economic Law Research Center (TELC) Universität Halle-Wittenberg)
23	(TLCP) Transnational Law & Contemporary Problems
24	(TLT) Transnational Legal Theory
25	(VTR) Virginia Tax Review
26	(VJTL) Vanderbilt Journal of Transnational Law
27	(WTR) World Trade Review
28	Trans-Leg Transnational Law free research and codification platform
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30	Peking University School of Transnational Law (STL)
31	New York University - Center for Transnational Litigation and Commercial Law (CfTLCL)
32	Center for Transnational Legal Studies (CTLS), Faculty of Law, Georgetown University (USA)
33	Transnational Economic Law Research Center (TELC), Faculty of Law, Martin-Luther-Universität Halle-Wittenberg (Germany)
34	Institute of Research on the Evolution of Transnational Activities Environment (IREENAT), Faculty of Law, University of Lille II (France)
35	Transnational Law Project (TLP-LSE), Department of Law, London School of Economics (United Kingdom)
36	Center of Transnational Law (CTL), Faculty of Law, University of Geneva (Switzerland)
37	International and Transnational Law Center (ITLC), Faculty of Law, University of Montreal (Canada)
38	Duke-Geneva Institute in Transnational Law (DGITL)