

## Module L5: International Tax Law

<b>Stage</b>	1						
<b>Semester</b>	2						
<b>Module Title</b>	International Tax Law						
<b>Module Number/Reference</b>	ITXL						
<b>Module Status (Mandatory/Elective)</b>	Elective						
<b>Module ECTS credit</b>	10						
<b>Module NFQ level (only if applicable)</b>	9						
<b>Pre-requisite Module Titles</b>	N/A						
<b>Co-requisite Module Titles</b>	N/A						
<b>Is this a capstone module? (Yes or No)</b>	No						
<b>List of Module Teaching Personnel</b>	Dr Cian Carroll						
<b>Contact Hours</b>				<b>Non-contact Hours</b>			<b>Total Effort (Hours)</b>
<b>Lecture</b>	<b>Practical</b>	<b>Tutorial</b>	<b>Seminar</b>	<b>Assignment</b>	<b>Placement</b>	<b>Independent work</b>	
40				20		140	200
<b>Allocation of Marks (Within the Module)</b>							
	<b>Continuous Assessment</b>	<b>Project</b>	<b>Practical</b>	<b>Final Examination</b>	<b>Total is always 100%</b>		
<b>Percentage contribution</b>	30%			70%	<b>100%</b>		

### Intended Module Learning Outcomes

On completion of the module the learner will be able to:

1. Critically analyse and evaluate in-depth international tax law and the philosophical, political and economic structures underpinning it
2. Apply advanced research techniques to investigate and evaluate normative and legal principles, policy considerations, and rules of various sources of international tax law, in the context of relevant commercial transactions

3. Demonstrate theoretical knowledge and critical thinking in analysis of the main principles governing jurisdiction to tax
4. Demonstrate critical knowledge and understanding of International Tax Law and show an integrated and critical appreciation of various aspects of the subject in the completion of advanced examinations and dissertation
5. Demonstrate mastery in distilling complex and disparate sources of data in the field of international tax law and expressing it with clarity and coherency
6. Apply advanced skill and judgment in assessing the effects of the interaction of domestic and international legal tax codes

### **Module Objectives**

This module focusses on an analysis of principal features of the international tax law system, from the perspective of Irish and EU law. The course looks generally at the main theories, concepts and principles of international tax law and then more particularly at the main substantive areas of the subject such as principally public international law and taxation, the OECD Model Income Tax Convention and EC law as it affects member states' tax systems. Thereafter the course examines important issues such as the different approaches to corporate income taxation, tackling international tax avoidance, international tax law as it applies to developing countries, and the issues in modifying established international tax rules to regulate e-commerce activity.

### **Module Aims**

This module aims to provide learners with:

- a critical awareness of the established fundamental principles of international tax law
- an introduction to the Irish legal framework for international taxation as a general model with a central focus on the taxation of Irish tax residents on foreign source income and non-Irish tax residents on Irish source income
- an overview of public international law as it affects the allocation of jurisdiction to tax between nations
- an understanding of the significance and function of the OECD Model Income Tax Convention on the international tax system and the tax treaty networks of OECD countries
- a capacity to determine the application of core provisions of tax treaties in realistic international commercial scenarios
- an appreciation of the substantial jurisprudence of the European Court of Justice on the application of the fundamental freedoms of movement to the tax systems of EC member states
- an analysis of key issues in international taxation, being the approaches to cross-border tax avoidance, the issues in adapting tax treaties to address the requirements of developing countries, and the recent challenges posed by e-commerce to the traditional elements of the international tax system

### **Module Curriculum**

Introduction to International Taxation

- Scope of international taxation
- Historical development
- Principles and objectives
- Conceptual and legal sources of international tax law

## Irish legal framework for international taxation

- Taxation of residents on foreign source income
- Taxation of non-residents on Irish-source income
- Double taxation relief mechanisms under Irish domestic law
- Tax relief for corporate groups under Irish domestic law
- Irish bilateral income tax treaties

## Public international law and taxation

- Normative relevance of public international law to matters of international taxation
- Principles of tax jurisdiction under public international law
- Principles of tax treaty interpretation

## OECD Model Income Tax Convention

- Introduction: history, objectives, structure
  - Taxation on bases of residence and source
  - Classification and assignment of income
  - Irish tax treaties in the context of the OECD Model
- Taxation of residents
- Permanent establishment (taxation of non-resident business entities)
- Taxation of business profits
- Taxation of dividends, interest, royalties
- Partnership taxation
- Capital gains tax
- Limitations on treaty benefits
- Methods for relief from double taxation
- Mutual agreement procedures for avoidance of double taxation

## European Community Law and member states' tax systems

- Allocation of fiscal competence between the EC and member states under the EC Treaty
- Fundamental freedoms and member states' tax systems
  - Free movement of persons
  - Freedom of establishment and services
  - Free movement of capital
- Secondary legislation
  - Mergers Directive
  - Parent and Subsidiary Directive
- EC reform

## Comparative Income Taxation

- Comparison of the tax regimes of Ireland, UK, USA, Germany, Japan under the following headings:
  - Individual and corporate income taxation
  - Interaction of shareholder and corporate taxation

## Regulation of cross-border tax avoidance

- Transfer pricing
- Controlled foreign corporations (CFCs)
- General anti-avoidance provisions in common law jurisdictions

## International tax law and developing countries

- UN Model Income Tax Convention
- Differences between UN and OECD Models
- International justice and taxation

## Taxation of e-commerce

- Tax treaty issues
  - Reform of the Permanent Establishment rule
  - OECD reforms on taxation of business profits
- Fundamental reforms

## Teaching Plan

<b>Week 1</b>	Introduction to International Taxation
<b>Week 2</b>	Irish legal framework for international taxation
<b>Week 3</b>	Public international law and taxation
<b>Week 4</b>	OECD Model Income Tax Convention Part I
<b>Week 5</b>	OECD Model Income Tax Convention Part II
<b>Week 6</b>	European Community Law and member states' tax systems
<b>Week 7</b>	Comparative Income Taxation
<b>Week 8</b>	Regulation of cross-border tax avoidance
<b>Week 9</b>	International tax law and developing countries
<b>Week 10</b>	Taxation of e-commerce
<b>Week 11</b>	Case Studies
<b>Week 12</b>	Reinforcement of Key Themes

## Reading lists and other learning materials

OECD, 2008. OECD International Tax Convention on Income and Capital.

### Recommended reading

Ault, H.J. & Arnold, B.J., 2010. *Comparative income taxation a structural analysis*, S.I: Kluwer Law International.

Baker, P., 2001. *Double taxation conventions and international tax law*, London: Sweet & Maxwell.

De Búrca, G. & Scott, J., 2003. *The EU and the WTO: legal and constitutional issues*, Oxford: Hart Pub.

Haccius, C., 2004. *Ireland in international tax planning*, Amsterdam, The Netherlands: IBFD Publications.

Harris, P.A., 1996. *Corporate shareholder income taxation and allocating taxing rights between countries: a comparison of imputation systems*, [Amsterdam]: IBFD.

OECD, 2008. *OECD International Tax Convention on Income and Capital*.

Terra, B.J.M. & Wattèl, P.J., 2012. *European tax law*, Alphen aan den Rijn: Kluwer Law International.

Van Raad, K., 2004. *Materials on international & EC tax law 2004/2005 Vol. 1.*, Leiden: International Tax Center.

Van Raad, K., 2008. *Materials on International & EC tax law/ selected and ed. by Kees van Raad Vol. 2 [2008/2009]*, Leiden: International Tax Center.

Vogel, K., Marin, J. & Engelschalk, M., 1998. *Klaus Vogel on double taxation conventions: a commentary to the OECD-, UN- and US model conventions for the avoidance of double taxation on income and capital : with particular reference to German treaty practice*, London: Kluwer Law International.

**Module Learning Environment**

This module is delivered by means of structured and participative style lectures. A learning environment that promotes collaborative learning is used and learners are encouraged to actively engage in all class discussions and exercises.

**Module Teaching and Learning Strategy**

The delivery of this module is facilitated by structured and participative style lectures and tutorials. The module is presented and supported by relevant case law examples of international tax law. Learners have the opportunity to discuss these cases within a dynamic environment. The lecturer facilitates delivery of a talk from a leader in the field of international taxation.

**Range of modes of direct contact**

This module is delivered using weekly learner and group led lectures. Learner’s learning is supported by encouraging and facilitating a discovery based co-operative learning environment.

Total contact hours: 36 Hours

**Range of other learning methods**

Learners guided independent reading and research is supported by use of Moodle to help prepare learners for their classes in addition to developing autonomous self-directed learners.

Total non-contact hours: 164 Hours

**Module Assessment Strategy**

Assessment methods			
<u>Element number</u>	<u>Weighting</u>	<u>Type</u>	<u>Description</u>
1	30%	Assignment	5,000 words
2	70%	Exam	The examination is a 3 hour exam which covers the breadth of the course and requires learners to answer 3 questions out of 6, testing their ability to apply knowledge learned throughout the module.

### Constructive Alignment of Assessment

Module Learning Outcomes	Assessment Strategy	
	Element 1	Element 2
1. Critically analyse and evaluate in-depth international tax law and the philosophical, political and economic structures underpinning it	YES	YES
2. Apply advanced research techniques to investigate and evaluate normative and legal principles, policy considerations, and rules of various sources of international tax law, in the context of relevant commercial transactions	YES	YES
3. Demonstrate theoretical knowledge and critical thinking in analysis of the main principles governing jurisdiction to tax	YES	YES
4. Demonstrate critical knowledge and understanding of International Tax Law and show an integrated and critical appreciation of various aspects of the subject in the completion of advanced examinations and dissertation	YES	YES
5. Demonstrate mastery in distilling complex and disparate sources of data in the field of international tax law and expressing it with clarity and coherency	YES	YES
6. Apply advanced skill and judgment in assessing the effects of the interaction of domestic and international legal tax codes	YES	YES

### Sample Examination Marking Criteria

Outstanding work which is both illuminating and insightful. Language is fluent and authoritative demonstrating a comprehensive knowledge, and convincing command of the subject matter. Accurate and concise application of theory and additional sources of work where appropriate. Exceptionally clear and well articulated examples provided to support learner's answer. Excellent structure.	80%+
Evidence of a very good understanding of theory and sound application to a particular business scenario when required. Competent critical analysis with the ability to develop a clear and compelling argument. Well developed examples where required to help illustrate learner's work.	70- 79 %
Good understanding of the underlying concepts and a good attempt at applying theory to business scenario when required. Good logic and structure to answer. Examples provided to illustrate answer.	60- 69%
Evidence of some reading from lectures, handouts, recommended texts though often descriptive in nature. Reasonable use of most major points though missing some key elements of theory. Confused or unclear in parts. Examples provided where required but underdeveloped.	55 – 59%
Some relevant material but inadequate or incomplete treatment of same. Minimal or missing examples.	50 – 54%

Not of passing standard though shows signs of some engagement with the material.	45 – 49%
Serious lack of relevance; signs of lack of involvement with course material; serious confusion.	<45%