

Program: Master Academic Studies
Course title: INTERNATIONAL TAX TREATY LAW
Lecturers: Prof. Dr. Dejan Popović, Prof. Dr. Gordana Ilić-Popov, Doc. Dr. Miloš Milošević, Doc. Dr. Svetislav V. Kostić
Status of the course: Elective
Duration and schedule of the lectures: One semester; summer semester
Overall number of lectures (practice included): 15
ECTS points: 10
Course objectives: After completing the course, students will gain in-depth knowledge on the crucial matters from the complex field of international taxation and form solid legal basis for interpretation and application of provisions of the conventions on the avoidance of double taxation of income and capital. Apart from conventions on the avoidance of double taxation, students will have the opportunity to learn about tax relevant provisions of WTO law, bilateral agreements on economic cooperation and free trade, as well as bilateral investment treaties.
Course outcome: Upon the successful completion of the course, students will be equipped for critical analysis and contemplation of numerous aspects of conflicts of jurisdictions, especially at times when Serbia is opening its economy, attracting foreign investment and endeavors to minimize the extent of tax avoidance through the abuse of conventions on the avoidance of double taxation, while also being obligated, in line with the provisions of the Stabilization and Association Agreement with the EU and its member states, to bring in line its network of conventions on the avoidance of double taxation with the latest versions of the OECD Model-convention on taxes on income and capital. Additionally, students will gain insight into one, insufficiently explored segment of international tax law – the one stemming from numerous and diverse provisions of international commercial agreements (WTO law, bilateral agreements on economic cooperation and free trade, as well as bilateral investment treaties).
Course content (syllabus):
I. INTERNATIONAL DOUBLE TAXATION (notion, causes, consequences)
<i>International taxation of income of individuals within the Serbian legal framework; International taxation of income of legal entities within the Serbian legal framework; International taxation of property within the Serbian legal framework. Methods for the prevention/elimination of double taxation (in general). Unilateral measures for the prevention/elimination of double taxation within the Serbian legal framework.</i>
II. INTERNATIONAL MEASURES FOR THE PREVENTION OF DOUBLE TAXATION
<i>Conventions on the avoidance of double taxation. Model-conventions on the avoidance of double taxation (in general): OECD Model-convention, UN Model-convention, Serbian Model-convention. Relationship between the conventions on the avoidance of double taxation and national material law.</i>
III. APPLICATION AND INTERPRETATION OF CONVENTIONS ON THE AVOIDANCE OF DOUBLE TAXATION
<i>General provisions of conventions on the avoidance of double taxation (art. 1, 2, 3 and 4 OECD/UN Model-convention). Definition and concept of Permanent Establishment (art. 5 and 7 OECD/UN Model-convention). Taxation of independent personal services (art. 14 UN Model-convention). Associated enterprises – arm's length principle (art. 9 OECD/UN Model-convention). Taxation of income from immovable property (art. 6 OECD/UN Model-convention). Taxation of income from international traffic (art. 8 OECD/UN Model-convention). Taxation of dividends, interest and royalties (art. 10, 11 and 12 OECD/UN Model-convention). Taxation of capital gains (art. 13 OECD/UN Model-convention). Taxation of employment income (art. 15 OECD/UN Model-convention). Taxation of directors fees, entertainers' and sportspersons' income, pensions, government service income, income of students and members of diplomatic missions or consular posts (art. 16, 17, 18, 19, 20 and 28 (27) OECD/UN Model-convention). Taxation of other income (art. 21 OECD/UN Model-convention). Taxation of capital (art. 22 OECD/UN Model-convention). Elimination of double taxation (art. 23 A and B OECD/UN Model-convention). Non-discrimination (art. 24 OECD/UN Model-convention). Mutual Agreement Procedure and Exchange of information (art. 25, 26 OECD/UN Model-convention). Assistance in the collection of taxes, Territorial extension (art. 27 and 29 OECD Model-convention).</i>

IV. TAX ASPECTS OF INTERNATIONAL COMMERCIAL AGREEMENTS

Tax aspects of WTO law. Tax aspects of bilateral agreements on economic cooperation and free trade. Tax aspects of bilateral investment treaties.

V. FUNDAMENTALS OF INTERNATIONAL TAX PLANNING

Introduction to the techniques of international tax planning. Abuse of conventions on the avoidance of double taxation and the principle of facticity in Serbian tax law. Transfer pricing and thin capitalization rules. BEPS (Base erosion and profit shifting) project.

Literature

- Dejan Popović, *Poresko pravo* (Chapter „Sukob poreskih zakona“), Pravni fakultet Univerziteta u Beogradu, Belgrade 2017.
- Dejan Popović, Svetislav Kostić, *Ugovori Srbije o izbegavanju dvostrukog oporezivanja (pravni okvir i tumačenje)*, CEKOS IN, Belgrade 2009.
- OECD Model Tax Convention on Income and on Capital 2014, OECD, Paris, 2014.
- Smernice OECD za primenu pravila o transfernim cenama za multinacionalna preduzeća i poreske uprave, Srpsko fiskalno društvo, Belgrade 2010.
- David A. Ward, “The Role of the Commentaries on the OECD Model in the Tax Treaty Interpretation”, *Bulletin for International Taxation*, Vol. 60, No. 3/2006.
- Servatius van Thiel, “General Report”, *WTO and Direct Taxation* (eds. Michael Lang, et. al.), Linde Verlag Wien, Vienna 2005.
- Wolfgang Schon, “World Trade Organization and Tax Law”, *Bulletin for International Taxation*, Vol. 58, No. 7/2004.
- Alexander Rust, “Double Taxation” *Double Taxation within the European Union* (ed. Alexander Rust), Kluwer Law International, Alphen aan den Rijn 2011.
- Dejan Popović, Svetislav Kostić, “(Zlo)upotreba stranih pravnih lica za izbegavanje poreza u Srbiji”, *Anali Pravnog fakulteta u Beogradu*, br. 2/2010.
- Dejan Popović, Gordana Ilić-Popov, “Utvrđivanje izvora dohotka u poreskom pravu”, *Anali Pravnog fakulteta u Beogradu*, br. 2/2008.
- Paul R. McDaniell, “The Impact of Trade Agreements on Tax Systems”, *International and Comparative Taxation – Essays in Honour of Klaus Vogel* (ed. K. Vogel), Kluwer Law International, London 2002.
- Michael Lennard, “The UN Model Tax Convention as Compared with the OECD Model Tax Convention – Current Points of Difference and Recent Developments”, *Asia-Pacific Tax Bulletin*, Vol. 15, No. 1/2009.
- Svetislav Kostić, “Serbia”, *The Impact of the OECDE and the UN Model Conventions on Bilateral Tax Treaties* (eds. Michael Lang, Pasquale Pistone, Joseph Schuch, Claus Staringer), Cambridge University Press, Cambridge 2012.
- Svetislav Kostić, “Serbia”, *Tax Rules in Non-Tax Agreements*, ” (eds. M. Lang, P. Pistone, J. Schuch, C. Staringer, A. Storck), IBFD, Amsterdam 2012
- Lucas de Heer, Paul R.C. Kraan, “Legal Protection in International Tax Disputes – How Investment Protection Agreements Address Arbitration”, *European Taxation*, Vol. 52, No. 1/2012.
- Klaus Vogel, *Klaus Vogel on Double Taxation Conventions – Third Edition*, Kluwer Law International, London 1997.
- *United Nations Model Double Taxation Convention Between Developed and Developing Countries*, United Nations, New York 2011.
- Chris Finnerty, Paulus Merks, Mario Petriccione, Raffaele Russo, *Fundamentals of International Tax Planning*, IBFD, Amsterdam 2007.
- Reuven S. Avi-Yonah, *International Tax as International Law – An Analysis of the International Tax Regime*, Cambridge University Press, New York 2007.
- *Addressing Base Erosion and Profit Shifting*, OECD, Paris 2013.
- Jennifer Farrell, *The Interface of International Trade Law and Taxation*, IBFD, Amsterdam 2013.

Lecturing methods: Lectures, study groups, consultations, seminar papers and essays, *case study*, *power-point* presentations.

Grading (maximum score 100)

Activities during the semester

Points:

Final exam

Points:

	50		50
Lectures	max 10	oral exam	max 50
successfully defended seminar paper	max 30		
other activities, as graded by the lecturer	max 10		