

TAX LAW I

Degree in Legal Studies (Solicitors)

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Code: 16808

Main Scientific Area: Administrative and Tax Law

Lecturer: Sara Luís da Silva Veiga Dias

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

Objectives

The main goal of this curricular unit is to provide the students the essential concepts as far as the understanding of the legal discourse related with taxes. That will be complemented by the practical application of concepts when it needed.

In particular, it is intended that, in the end of this curricular unit, the students:

1. Know how to insert tax law in the Portuguese legal regime and characterize it as a branch of law;
2. Know the concept of tax and other similar figures;
3. Perceive the sources of tax law, applying the constitutional principles;
4. Understand the nature, interpretation and application of tax legal rules;
5. Know and characterize the elements and structure of the tax legal relationship;
6. Achieve the practical application of the various tax concepts in the resolution of cases and exercises.

Learning Outcomes

At the end of the curricular unit, students must:

- dominate the main framework concepts and justification of the need for state revenue collection;
- perceive the concept of tax and its main classes; charges and special tributes and related figures;
- comprehend the theory of tax norm: sources of tax law, interpretation of tax law, integration of loopholes, application of tax law in time and space;
- know and understand the functioning of the tax juridical relationship, particularly regarding its components and the problems of this relationship.

Course Contents

I - INTRODUCTORY CONCEPTS

1. The Financial Activity of the State; collective needs
2. Concept of Tax Law

3. Scope and nature of Tax law. Relationship with other branches of law

II - TAXES AND RELATED FIGURES

1. Tax Concept
2. Differentiation of Related Figures
 - 2.1. Rate
 - 2.2. Special contributions
 - 2.3. Receitas parafiscais
 - 2.4 Preço ou tarifa
 - 2.5. Multas e coimas

3. Classification of taxes

III - TAX RULES

1. Sources of Tax law
 - 1.1. The Constitution: constitutional principles
 - 1.1.1. The principle of fiscal legality
 - 1.1.2. The principle of legal certainty
 - 1.1.3. The principle of non-retroactivity
 - 1.1.4. The prohibition of the fiscal referendum
 - 1.1.5. Principle of equality and ability to contribute
 - 1.1.6. The family's tax consideration
 - 1.1.7. Respect for the Regime of Rights, Freedoms and Guarantees
 - 1.1.8 The principle of the Social State
 - 1.2.3.6. Analysis of Art. 104 of the CRP.
 - 1.2. EU law and international law
 - 1.3. Ordinary laws
 - 1.4. External regulations
 - 1.5. The internal regulations of the Tax administration (orders, instructions, circulars). The generic guidelines.
 - 1.6. Jurisprudence and doctrine
 - 1.7. The codification of Tax law
2. Interpretation of the Tax Law
3. Integration of gaps in the Tax Law
4. Law enforcement in time: General principle of non-retroactivity
5. Law Enforcement in space

IV - THE TAX LEGAL RELATIONSHIP

1. The tax liability (characteristics)
2. The subjects
 - 2.1. The active subject of the Tax legal relationship
 - 2.2. The taxable person of the Tax legal relationship
 - 2.3. Tax Personality and Capacity
 - 2.3.2 The representation of couples
 - 2.3.3. tax representation and managers of property or rights of non-residents
 - 2.3.4 Business manager
 - 2.4.5 Permanent establishment
 - 2.5 Tax domicile
 - 2.6 Tax liability: reversion of the tax enforcement process ~
 - 2.7. Tax substitution
 - 2.8 Transmission of tax obligations
 - 2.8. Sucession
 - 2.9 Transmission of tax credits

- 3. objet of the tax relationship
 - 3.1 Main obligation
 - 3.2. Assessory obligations: in particular, interests
- 4. The legal fact
 - 4.1. Introduction: moments of the life of the tax (incidence, posting, settlement and collection)
 - 4.2. alteration of the tax legal relationship
 - 4.2.1 . Simulation
 - 4.2.2. General Anti Avoidance Clause
 - 4.3. Extinction of the Tax Obligation
 - 4.3.1. Compliance
 - 4.3.2 . Payment in kind
 - 4.3.3. Set-off
 - 4.3.4 Expiry of the right of assessment
 - 4.3.5 Time-barring of tax debts
- 4. Guarantees of compliance with the tax obligation
 - 4.1. The general guarantee
 - 4.2 Special guarantees
 - 4.2.1. Credit privileges
 - 4.2.2. Pledge/mortgage
 - 4.2.3. Right of retention
 - 4.2.4. Security provision
 - 4.3. Precautionary measures

Recommended Bibliography

- Sebenta de Direito Fiscal 1, DIAS, Sara Luís Coord.), CARVALHO, Ana Sofia, CARDOSO, Cláudio, COSTA, Suzana, DIAS, Sara Luís, FIGUEIRAS, Cláudia, RIBEIRO, Carlos Padrão, PIAIRO DE SOUSA, Bárbara e VILAÇA, Margarida Inês,
- CASALTA NABAIS, José, Direito Fiscal, 8ª edição, Almedina, 11.ª ed., 2019.
- DIAS, Sara Luís, Direito Fiscal – Casos Práticos Resolvidos, GESLEGAL, 2021

Learning and Teaching Methods

The program of study is consistent with the goals of this C.U. as it is intended to provide fundamental knowledge of Tax Law (the concept of the framework of tax law, the concept of tax, tax rules and the tax legal relationship), in a theoretical and practical aspect, so students can apply them later in their academic, personal and professional life. In this sense:

- Chapter I corresponds to an introduction to the concept and framework of the discipline of Tax Law and aims to fulfill objective 1) of the Curricular Unit;
- Chapter II corresponds to an analysis of the concept of tax and distinction of other similar legal figures and aims to fulfill the objectives 2) and 5) of the Curricular Unit;
- Chapter III corresponds to the understanding of the sources of tax law and tax legal rules and their application in time and space and aims to fulfill objectives 3), 4) and 5) of the Curricular Unit;
- In Chapter IV, the tax legal relationship is analyzed and aims to fulfill the objectives 5) and 6) of the Curricular Unit.

Assessment Methods

The evaluation in this Curricular Unit will follow the method of “continuous and periodic evaluation”, which is composed by two tests, each one will be worth 50% of the final evaluation.

The students must obtain a minimum score of eight values in both tests for final approval in this curricular unit.

There is no place to oral examinations.

The dates of the tests of each course will be indicated later.