

TAX LAW II

Degree in Legal Studies (Solicitors)

Degree in Legal Studies (Solicitors)

Code: 16811

Main Scientific Area: Administrative and Tax Law

Lecturer: Sara Luís da Silva Veiga Dias

Language of Instruction: Portuguese

Regime: S1

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

Objectives

The main goal of this curricular unit will be to provide the students of the 1st cycle of studies with a set of theoretical knowledge essential to the understanding of the procedure and the tax process, which is complemented with the practical application of the concepts, whenever this is pertinent.

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

1. Understand the structure and phases of the main tax procedures.
2. Understand the structure and phases of the main tax processes.
3. Understand and apply the main guarantees of the Portuguese tax system, with a particular focus on the role that solicitors can perform in these matters.
4. Critically analyze the ongoing tax reform in the field of the tax procedure and process.
5. To relate the main abusive behavior in tax matters with the legal types corresponding to the contra-orders and tax crimes, as well as the corresponding means of defense.
6. Stimulate jurisprudential research and analysis of specific situations.

Learning Outcomes

At the end of the curricular unit, students must:

- Know the principles and characteristics of tax administrative procedures;
- Know the principles and characteristics of tax procedures;
- Know the main administrative and judicial tax means of reaction;
- Make use of these means in a professional context.
- Know the main tax violations and means of reaction.

Course Contents

I - THE TAX PROCEDURE

1. The notion and scope of the tax procedure.
2. Stages of the procedure.
3. General principles of the tax procedure
4. Tax procedures in particular:
 - 4.1. Information procedures
 - Simple information
 - Binding information: simple and urgent
 - Generic guidance procedure
 - Tax inspection procedure
 - 4.2 Evaluation procedures: direct and indirect

5. Tax benefit recognition procedure 6
- . Procedure for avoidance of presumptions
7. Settlement procedure
8. Collection procedure
9. Precautionary procedures
10. Administrative reaction procedures:
 - Request for revision of the tax base
 - Administrativa Complaint
 - Hierarchical appeal
 - Request for revision of the tax act.
 - Other procedures - request for second evaluation; complaint of matrices; correction of the price of real estate.

II - THE TAX PROCESS

1. Framing
2. Structuring principles of the tax process.
3. The interveners of tax process
4. The stages of the process
5. Evidence in tax process
6. Procedural means - tax proceedings (tax litigation)
 - 6.1. Scope of tax litigation
 - 6.2. Judicial action
 - 6.3. Action for recognition of a tax right or interest
 - 6.4. The tax enforcement procedure – opposition, third-party embargoes, judicial claim and cancellation of sale.
 - 6.5 Other procedural means
 - 6.6. Jurisdictional appeals

III- TAX ARBITRATION

1. Scope
2. Procedural procedure

IV. GENERAL REGIME OF TAX OFFENCES

1. Introduction
2. Tax crimes
 - 2.1. Main tax crimes
 - 2.2. Tax criminal proceedings - remission
3. Tax administrative infraction
 - 3.1. Main tax administrative infraction
 - 3.2 The administrative infraction proceedings
4. Reference to crimes and tax administrative infraction relating with Social Security

Recommended Bibliography

- ROCHA, Joaquim Freitas da, Lições de Procedimento e Processo Tributário, Almedina, Coimbra, 2021;
- MORAIS, Rui Duarte, Manual de Procedimento e Processo Tributário, Almedina, 2016.

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 administrative procedure ad tax process, 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 tax administrative procedure and aims to fulfill objective 1), 3), 4) and 6) of the Curricular Unit;

- Chapter II corresponds to tax process and aims to fulfill the objectives 2), 3), 4) and 6) of the Curricular Unit;
- Chapter III corresponds to tax arbitration and aims to fulfill objectives 2), 3), 4) and 6) of the Curricular Unit;
- In Chapter IV, the tax crimes and tax administrative infractions 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:

- submission of a written work, with an oral presentation, which accounts for 40% of the final evaluation (the topic and structure of the work will be indicated by the teacher in due course);
- one test, which accounts for 60% of the final evaluation.

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

There is no place to oral examinations.

The dates for evaluation will be indicated later.

ERASMUS students will be evaluated by written work and oral presentation. NOTE: Students with distance classes must turn on the cameras and, whenever they wish to intervene, the microphones. In the access to the class session, they must be previously authenticated, using the student's e-mail.