**EUROPEAN TAX LAW**

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**The goals of the course**:

1. Providing an insight in the policy issues of the EU internal market that are relevant for indirect taxation (VAT, excises and customs duties) and of direct taxation (personal and corporate income tax, withholding taxes);
2. Enabling students to argue cases in indirect and direct taxation on the basis of the principles in the TFEU and secondary Community law (directives , regulations and recommendations);

The purpose of the course is not to engage in a systematic study of indirect taxes such as VAT and excises.

**Content and schedule of the courses**

1 Introduction:

a. Treaty rules relevant to taxation

b. Milestone non tax cases:

- 152/73, Sotgiu v Deutsche Bundespost, 12.02.1974 XX

- 2/74, Reyners v Belgian State, 21.06.1974

- 8/74, Procureur du Roi v Dassonville, 11.07.1974 XX

- 120/78, Rewe v Bundesmonopolverwaltung für Branntwein (Cassis de Dijon), 12.02.1979 XX

- 115/78, Knoors v Staastsecretaris voor Economische Zaken, 07.02.1979

- C-415/93,Union royale belge des sociétés de football v Jean-Marc Bosman, 15.12.1995 XX

2. ECJ case law on indirect taxation:

* 27/67, Fink Frucht, 04.04.1968 XX
* 77/72, Carmine Capolongo v Azienda Agricola Maya, 19.06.1973
* 73/79, Commission v Italy, 21.05.1980 XX
* 142 and 143/30, Amministrazione delle Finanze v Essevi SpA and Carlo Salengo, 27.05.1981
* 171/78, Commission v Denmark, 27.02.1980 XX
* 356/85, Commission v Belgium, 09.07.1987 XX

3. Basic ECJ case law on discrimination of non-residents:

* 270/83, Avoir Fiscal, 28.01.1986 XX
* C-175/88, Biehl, 08.05.1990 XX
* C-204/90, Bachmann, 28.02.1992 XX
* C-279/93, Schumacker, 14.02.1995 XX

4. ECJ case law on discrimination and double taxation:

* C-35/98, Verkooijen, 06.06.200 XX
* C-324/00, Lankhorst-Hohorst, 12.02.2002
* C-168/01, Bosal Holding, 18.09.2003
* C-319/02, Manninen, 07.09.2004 XX
* C-513/04, Kerckhaert-Morres, 14.11.2006 XX
* C-374/04, ACT Group Litigation, 12.06.2006
* C-446/04, FII Group litigation, 12.06.2006
* C-379/05, Amurta, 08.11.2007
* C-436 and 437/08, Haribo Lakritzen – Österreichische Salinen, 10.11.2011
* C-35/11, Test Claimants in FII Litigation, 13.11.2012

5. ECJ case law on discrimination in tax treaties and determination of tax jurisdiction:

* C-336/96, Gilly, 12.05.1998 XX
* C-307/97, Saint Gobain, 21.09.1999 XX
* C-376/03, D case, 05.07.2005 XX
* C-446/03, Marks & Spencer, 13.12.2005 XX
* C-414/06, Lidl Belgium

6. Anti-abuse case Law:

* C-255/02, Halifax (VAT), 21.02.2006
* C-196/04, Cadbury Schweppes, 12.09.2006 XX
* C-298/05, Columbus Container, 06.12.2007
* C-321/05, Kofoed, 05.07.2007
* C-425/06, Part Service (VAT), 21.02 2008

7. ECJ case law on the concept of discrimination:

- C-513/03, van Hilten-van der Heijden, 23.02.2006 XX

- C-282/07, Truck Center, 22.12.2008

8. ECJ case law on transfer of seat/POEM and exit taxes:

* 81/87, Daily Mail, 27.09.1988
* C-208/00, Überseering, 05.11.2002
* C-9/02, Lasteyrie du Saillant, 11.03.2004
* C-210/06, Cartesio, 16.12.2008
* C-371/10, National Grid, 20.11.2011

9. Third countries & free movement of capital:

* C-492/04, Lasertec, 10.05.2007
* C-157/05, Holböck, 24.05.2007
* C-101/05, Skatteverket v A, 18.12.2007

10. State aid and ECJ case law:

* 30/59, De gezamenlijke steenkolenmijnen in Limburg v High Authority ECSC, 23.02.1961
* 248/84, Federal Republic of Germany v Commission, 14.10.1987
* C-143/99, Adria-Wien Pipeline, 08.11.2001
* C-88/03, Portuguese Republic v Commission, 06.09.2006
* C-106 and 107 P, Commission v Gibraltar and UK, 15.11.2011

11. Parent-subsidiary directive XX

12. Interest-Royalty Directive XX

13. Merger directive XX

14. Interest savings directive and Rubik agreements XX

15. Directive on administrative cross-border cooperation XX

16. Directive on recovery of tax claims

17. Draft directive on CCCTB

**Course materials**

The course materials are the texts of the TFEU and the relevant directives and documents from the Commission. For the case law summaries of the cases will be provided on slides and the summaries and full text of the cases is also available on the IBFD database , which is accessible to the students for the duration of the course.

**Examination**

Examination consists of either of two open book (all materials allowed) questions: either a client memo on a practical cases on European taxation, or a memo on a policy issue for the Commission each of not more than five sheets (10 pages) maximum to be written in a period of three hours.

**Disclaimer**

Depending on the circumstances some of the cases may be deleted from the programme, i.e. the schedule is the absolute maximum.