



Universitat de Lleida

DEGREE CURRICULUM
FINANCIAL AND TAX LAW.
GENERAL PART

Coordination: M^a Mercè Castillo Solosna

Academic year 2015-16

Subject's general information

Subject name	Financial and Tax Law. General Part
Code	101821
Semester	2n Q Avaluació Continuada
Typology	Obligatòria
ECTS credits	7.5
Groups	1GG i 2 GM
Theoretical credits	0
Practical credits	0
Coordination	M ^a Mercè Castillo Solosna
Office and hour of attention	Dimecres de 18 a 21 h i Dijous de 9.30 a 14.30 h. Despatx 2.19.
Department	Dret Públic
Teaching load distribution between lectures and independent student work	40% presencial 75 hores setmanals 60% no presencial 112,5 hores de treball autònom.
Modality	Presencial
Important information on data processing	Consult this link for more information.
Language	Idioma Percentatge d'ús Català 50.0 Anglès 0.0 Castellà 50.0
Degree	Degree in Law
Distribution of credits	4,5 ECTS GG 3 ECTS GM
Office and hour of attention	Dimecres de 18 a 21 h i Dijous de 9.30 a 14.30 h. Despatx 2.19.
E-mail addresses	MCastillo@dpub.udl.cat

M. Merce Castillo Solsona

Subject's extra information

This course is the first contact that law degree students have with financial law. Likewise, given its location in the curriculum during the second half of the 3rd year, it is taught with the premise that students already know the sources of the law system, the temporary and spatial efficiency of legal rules, the general theory of obligations, the territorial organization of power in the Spanish state and the system of distribution of powers between the different territorial levels of power and the general principles governing the administrative procedure and the law sanctions. But while examining the particularities of these notions in the field of taxation, it especially deals with the analysis of institutions that are characteristic of Financial and Tax Law (imposition, tax exemptions and non-taxable, taxable base, taxable income and tax liability) and in the study of taxation procedures, the system of tax offences and penalties and procedures for review of administrative acts of a tax nature. In this regard, it should be noted that the analysis of these institutions and procedures is not an end in itself but that students will study in its entirety the practical realization of such institutions and procedures, when the tax law subject is studied. A special part, located in the first half of the 4th year of the degree, discusses the major taxes that make up the Spanish tax system.

Learning objectives

Veure apartat competències.

Competences

University of Lleida strategic competences

- Correctness in oral and written language.

Goals

- Infer the principles that report financial and tax law
- Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law

- Master Information and Communication Technologies.

Goals

- Identify the sources of finance and tax law and infer its specialties with regards to the sources of other branches of law
- Identify and integrate country, regional, local and international taxation laws
- Systematically analyse tax procedures
- Apply the acquired theoretical knowledge to practical situations that arise

- Master a foreign language.

Degree-specific competences

- Show knowledge of the present legal system

Goals

- 2. Infer the principles that report financial and tax law 4. Identify and integrate country, regional, local and international taxation laws 5. Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law 6. Identify the specialties of the tax administrative procedures 7. Systematically analyse tax procedures 8. Apply the acquired theoretical knowledge to practical situations that arise
- Ability to perceive and assimilate the unitary nature of the legal system and its necessary transdisciplinary vision

Goals

- 1. Determine the study objective of financial and tax law and analyse financial and tax law with other branches of law 3. Identify the sources of finance and tax law and infer its specialties with regards to the sources of other branches of law 4. Identify and integrate country, regional, local and international taxation laws 5. Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law 6. Identify the specialties of the tax administrative procedures
- Ability to identify and interpret the sources of existing law

Goals

- 1. Determine the study objective of financial and tax law and analyse financial and tax law with other branches of law
- 3. Identify the sources of finance and tax law and infer its specialties with regards to the sources of other branches of law
- 7. Systematically analyse tax procedures
- 8. Apply the acquired theoretical knowledge to practical situations that arise
- Show knowledge of the characteristics, conceptual schedules, institutions and procedures of the judicial system

Goals

- 4. Identify and integrate country, regional, local and international taxation laws 5. Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law
- 7. Systematically analyse tax procedures

Degree-transversal competences

- Ability to adequately manage information (Instrumental ability)

Goals

- 1. Determine the study objective of financial and tax law and analyse financial and tax law with other branches of law 2. Infer the principles that report financial and tax law 3. Identify the sources of finance and tax law and infer its specialties with regards to the sources of other branches of law 4. Identify and integrate country, regional, local and international taxation laws 5. Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law 6. Identify the specialties of the tax administrative procedures 7. Systematically analyse tax procedures 8. Apply the acquired theoretical knowledge to practical situations that arise

- Ability to analyse and synthesize (Instrumental ability)

Goals

- 2. Infer the principles that report financial and tax law 3. Identify the sources of finance and tax law and infer its specialties with regards to the sources of other branches of law 4. Identify and integrate country, regional, local and international taxation laws 5. Analyse the concepts and the institutions of financial and tax law and, where appropriate, compare them with similar concepts and institutions in other branches of law 6. Identify the specialties of the tax administrative procedures

Subject contents

Subject contents

I.- First section. Concepts and principles of financial law

Subject 1. -Financial activity and financial law

Financial activity and its scientific consideration. - Financial and tax law. Concept and content. - The relationship of financial and tax law with other branches of law. - Budget. Concept, content and functions. Budgetary principles. The budget cycle. - Public revenue. Concept and types. Public non-revenue tax. Special reference to revenues derived from debt. Public tax revenue: an introduction.

Subject 2. - The principles of financial law

General characterization. - Financial constitutional principles. Classification. - Constitutional tax principles of a material nature. The fair distribution of tax burden: general principle; a principle of economic capacity; principle of equality; principle of progressiveness and its non-confiscatory limit. - The material constitutional principles in place of spending. The equitable allocation of public resources. The criteria of efficiency and economy. - The principle of legality.

Subject 3. - The sources of financial law

Financial legal policy and sources. - The Constitution. - International treaties. Special reference to agreements to avoid double taxation. - Supranational law. Special reference to the law of the European Union. - Law. The principle of legality and the principle of reservation of law in tax matters. Budget Act. Acts with the force of law: decree-laws and legislative decrees. The regional laws. - The Rules. Special reference to tax ordinances. - Interpretative policy and administrative arrangements. - Supplementary law. - Jurisprudence. - The codification of financial law. General Tax Law. General Budget Law.

Subject 4. - The application of financial law

General considerations. - Effectiveness of financial regulations in time. Entry into force and termination of its validity. Retroactive tax. - Effectiveness of financial rules. Territoriality and residence. International double taxation: concepts, methods and measures to prevent it. - Interpretation in financial law. - Analogy in financial law. - Tax qualification. - Conflict in the application of tax law. - Simulation.

Subject 5. -Financial power

Concept and limits. - The holders of financial power in Spain. - The financial power of the country. Field. - The financial power of Autonomous Communities. General characterization and regulatory framework. The financial power of autonomous communities in the common system. The financial power of Autonomous Communities in the statutory regime. - The financial power of local governments. General characterization and regulatory framework. The municipal treasury. General rules and special rules. - The Spanish financial management. - Introduction to international taxation.

II. - Second section. Tax law materials

Subject 6. - Taxes

Concept, purposes and types of taxes. - Taxes. Concept and characteristics. Types of taxes. - Rates. Concept. Legal Status. - Fees and public prices. Similarities and differences. - Special contributions. Concept. Legal system.

Subject 7. - The structure of the legal tax relationship. Taxable event. Not subject and exemption

The legal tax relationship. - Tax obligations. The primary tax liability. The tax obligation to make payments on account. The obligations arising directly from the tax. Accessory fiscal obligations. Formal tax obligations. - Taxable. Concept, functions and structure. The objective element of the taxable event, material, spatial, temporal aspect and quantitative aspect. The subjective element of the taxable event. - Non-taxable cases. - Tax exemption.

Subject 8. - The subject of the tax obligation

The active subject. - The taxpayers. Declaration. Entities without legal status as taxpayers. The solidarity of those subject to taxes. - Taxpayers. The taxpayer: concept and legal system. The replacement of the taxpayer: concept and legal system. - The successors. Successors of individuals. Successors of persons and legal entities without legal personality. - Those responsible for tax. Concept. Legal system. Classes. Cases of joint tax liability and cases of subsidiary tax liability. General Tax Law. - The ability to work in the tax system. - Representation in tax law. Legal representation. Voluntary representation. Representation of non-resident persons or entities. - Domicile for tax purposes.

Subject 9. - The quantification of tax liability

Tax base. Concept and methods of determination. - Taxable income. - The tax rate. Definition and types. - Tax liability. Definition and types. - The tax debt.

Subject 10. - The extinction of tax liability

Payment. Forms of payment. Time of payment. Payment terms. Allocation of payment. Deferral and paying in instalments. - The prescription. Periods of limitation. Computation of limitation periods. Interruption of limitation periods. Extent and effects of the prescription. - Other forms of termination of the tax debt: compensation, forgiveness and provisional suspension due to insolvency. - The tax credit guarantees. Right of priority. Tacit legal mortgage. Condition of goods. Lien. Precautionary measures. Deferral and instalment payment guarantees of the tax debt.

III. - Third section. Formal tax law

Subject 11. - The application of taxes

General aspects of the implementation of taxes. - Tools to facilitate the application of taxes. In favour of the taxpayers: tax consultations, publications and referral communications. In favour of the tax administration: collaboration agreements and the duty to inform the tax administration. - Common rules on tax proceedings and procedures. Specialties of the administrative procedures in tax matters. Phases of tax procedures. The tax notices. The obligation to resolve and resolution times. Testing. Notifications. Entry into the homes of taxpayers. Public accusation.

Subject 12. - Tax management

General provisions. Concept of tax management. Forms of initiation of tax management. Tax statements. Self-assessments. Data communication. Statements, self-assessments and additional or alternative communication. - Procedures for tax management. Declaration. - Return procedure initiated by self-assessment, application or data communication. - Proceedings brought by a statement. - Procedure for verifying data. - Procedure for verifying values. Verifying values. Special reference to contradictory expert appraisal. - Limited verification procedure.

Subject 13. - The tax inspection

General provisions. Functions, powers and documentation of inspection activities. - Inspection procedure. General rules: Start and development. Period, place and time of the inspection activities. - The completion of the inspections. The proceedings. Content Classes: proceedings with an agreement, compliance proceedings and disagreement proceedings.

Subject 14. - The collection of taxes

General considerations - The collection of taxes in a voluntary period. - Interest on late tax. - Untimely voluntary compliance. Penalty charges for late submission without prior notification. Assumptions and effects. - The collection of taxes in an enforced period. The enforcement period surcharges. - The judgement procedure. General rules start. The providence of writ: grounds for opposition. The seizure of property and rights. The diligence of seizure: grounds for opposition. The sale of seized goods. Completion of the judgement process. - The recovery procedure against those responsible and successors.

Subject 15. - Tax offences

Crimes against the Treasury. Special reference to the crime of tax fraud. - The power to impose penalties on tax matters. Principles. Responsible and subject violators and successors of tax penalties. - Definitions and types of tax violations. - The tax penalties. Classes. Graduation criteria. Reduced. Exemption of liability for tax violations and tax penalties. - The sanctioning procedure in tax matters.

Subject 16. - The administrative review of the tax acts

Declaration of the review means of the acts of application of the taxes and penalties. - Special procedures for review. Procedure for review of void acts of plenary rights. Declaration of harmfulness of voidable acts. Revocation. Correction of errors. Recovery of sums paid. - Administrative appeal. General characterization. Administrative appeal at the local level. - Economic-administrative claims. Application areas. Acts subject to economic-administrative claims. Economic-administrative bodies. The suspension of the execution of the contested act in economic-administrative means. - The economic-administrative general procedure.

Procedure for sole or first instance. - Economic-administrative resources. - The abbreviated process before individual bodies.

Methodology

GG: Lliçó magistral

GM: Plantejament, anàlisi i resolució de casos pràctics; comentaris de sentències de diverses instàncies judicials relatives a determinats aspectes de l'assignatura i plantejament de debats virtuals sobre temes d'actualitat relacionats amb la matèria pròpia de la part general del Dret financer i tributari.

Development plan

SETMANA	DESCRIPCIÓ	ACTIVITAT PRESENCIAL	HTP	ACTIVITAT TREBALL AUTÒNOM	HTNP
1 ^a 10-16 febrer	Presentació assignatura Tema 1	Lliçó magistral	2,5 GG	Estudi personal	7
2 ^a 17-23 febrer	Tema 2	Lliçó magistral Plantejament de la metodologia del comentari de sentències	2,5 GG 1,5 GM	Estudi personal Anàlisi de la metodologia del comentari de sentències	7
3 ^a 24 febrer - 2 de març	Tema 3	Lliçó magistral Plantejament del comentari de sentència núm. 1	2,5 GG 1,5 GM	Estudi personal Realització del comentari de sentència núm. 1	7
4 ^a 3 -9 de març	Tema 4	Lliçó magistral Lliurament del comentari de sentència núm. 1 i plantejament del comentari de sentència núm. 2	2,5 GG 1,5 GM	Estudi personal Realització del comentari de sentència núm. 2	7
5 ^a 10- 16 de març	Tema 5	Lliçó magistral Lliurament del comentari de sentència núm. 2	2,5 GG 1,5 GM	Estudi personal	7
6 ^a 17-23 de març	Tema 6	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització de pràctiques	7
7 ^a 24-30 de març	Tema 7	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització de pràctiques	7

8^a 31 de març- 6 d'abril	Tema 8	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització de pràctiques	7
9^a 8 d'abril	Prova avaluació teòrica Temes 1 a 6	Realització prova avaluació teòrica Temes 1 a 6	2,5 GG 1,5 GM	Estudi personal	7
10^a 21-27 d'abril	Tema 9	Lliçó magistral Plantejament d'un debat virtual sobre temes d'actualitat relacionats amb el temari de l'assignatura	2,5 GG 1,5 GM	Estudi personal Inici del debat virtual	7
11^a 28 d'abril- 4 maig	Tema 10	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització del debat virtual	7
12^a 5-11 de maig	Tema 11	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització del debat virtual	7
13^a 12-18 maig	Tema 12	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització de pràctiques	7
14^a 19- 25 maig	Tema 13	Lliçó magistral Pràctiques	2,5 GG 1,5 GM	Estudi personal Realització de pràctiques	7
15^a 26-1 juny	Tema 14	Lliçó magistral Consulta de dubtes	2,5 GG 1,5 GM	Estudi personal	7
5 de juny	Prova d'avaluació teòrica Temes 7 a 14	Realització prova teòrica Temes 7 a 14		Estudi personal	7
17^a	Revisió prova teòrica	Revisió personal prova teòrica			7
18^a	Revisió prova teòrica temes 7 a 14	Revisió personal prova teòrica			7
26 de juny	Recuperació prova d'avaluació teòrica Temes 1 a 6 i prova d'avaluació teòrica Temes 7 a 14	Realització proves de recuperació d'avaluació teòrica			7

Evaluation

Es preveuen dues modalitats d'avaluació.

I.- AVALUACIÓ CONTINUADA

La qualificació final és el resultat de la mitja ponderada corresponent a les següents activitats avaluatives:

(1) Comentari jurisprudencial. Aquesta activitat avaluativa es configura com una activitat de caràcter individual i de realització obligatòria. No es una activitat que pugui ser objecte de recuperació.

Període de realització: 3^a i 4^a setmana.

Percentatge sobre la qualificació final: 15%

(2) Prova d'avaluació teòrica dels continguts dels temes 1 a 6. Aquesta prova es configura com una activitat avaluativa de caràcter individual i de realització obligatòria que avalua els continguts dels dits temes en forma de preguntes de desenvolupament. Es tracta d'una activitat que pot ser objecte de recuperació.

Data de realització: 8 d'abril.

Percentatge sobre la qualificació final: 35%. Per tal de superar aquesta prova cal obtenir, com a mínim, 5 punts sobre 10.

(3) Debat virtual. Aquesta activitat avaluativa es configura com una activitat de caràcter individual i de realització optativa. No es una activitat que pugui ser objecte de recuperació.

Període de realització: des de la 10^a fins la 12^a setmana.

Percentatge sobre la qualificació final: 10%

(4) Prova d'avaluació teòrica dels continguts dels temes 7 a 14. Aquesta prova es configura com una activitat avaluativa de caràcter individual i de realització obligatòria que avalua els continguts dels dits temes tot combinant preguntes objectives - si bé no de tipus test- amb preguntes de desenvolupament. Es tracta d'una activitat que pot ser objecte de recuperació.

Data de realització: 5 de juny.

Percentatge sobre la qualificació final: 40%. Per tal de superar aquesta prova, cal obtenir, com a mínim, 5 punts sobre 10.

II.- AVALUACIÓ ALTERNATIVA

En el cas que una/a estudiant acrediti documentalment (per exemple, mitjançant contracte de treball) la impossibilitat de complir algun dels requisits establerts per a l'avaluació continuada podrà optar per la realització d'una prova única de validació de competències o coneixements que es realitzarà en les setmanes establertes al calendari d'avaluació del grau. Aquesta prova consistirà en un examen que combinarà preguntes de caràcter objectiu i preguntes de desenvolupament corresponents als 14 temes del programa de l'assignatura.

L'opció amb acreditació document es podrà realitzar fins el 25 de febrer,

Bibliography

Recommended bibliography

Legal texts

It is essential to use the legal texts for this branch of legislation, in particular, general tax laws. Various publishers (Aranzadi, Civitas, Tecnos, BOE ...) publish "tax codes" each year that are updated in the month of September and, although the main objective of this course is the study of general financial and tax law, we recommend, in order both to study the matter as well as to carry out the practical activities planned, the use of a "tax code" that not only contains the general rules of financial and tax law but also the rules governing the various taxes that make up the Spanish tax system.

General Bibliography

- Collado Yurrita, M. A. (Director), *Derecho Financiero y Tributario. Parte General*, Atelier, Barcelona, 2009.
- Ferreiro Lapatza, J.J., *Curso de Derecho Financiero Español*, Marcial Pons, Madrid, 2006.
- Ferreiro Lapatza, J.J., *Instituciones de Derecho Financiero*, Marcial Pons, 2010.
- Martín Queralt, J.; Lozano Serrano, C.; Tejerizo López, J.M. y Casado Ollero, G., *Curso de Derecho Financiero y Tributario*, 22ª edición. Revisada y puesta al día, Tecnos, Madrid, 2011.
- Menéndez Moreno, A. (Director), *Derecho Financiero y Tributario. Parte General. Lecciones de Cátedra*, 12ª edición, Lex Nova, 2011.
- Pérez Royo, F., *Derecho Financiero y Tributario. Parte General*, 21ª edición, Civitas-Thomson Reuters, Cizur Menor, 2011.

Magazines and newspapers

- Crónica Tributaria
- Impuestos
- Gaceta Fiscal
- Jurisprudencia Tributaria Aranzadi
- Quincena Fiscal
- Revista Española de Derecho Financiero
- Revista Técnica Tributaria
- Tribunal Fiscal
- Tributos Locales