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**Course: Law**

**Degree: Bachelor**

**Branch: Core curriculum**

**Study plan: Aviso n.º 9088/2019, de 23 de maio**

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**Teaching staff:**

**Professor in charge of the curricular unit**

Prof. Doutor Miguel Correia

**Other Professors of the curricular unit**

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**Language of instruction:**

English

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**Functioning:**

Weekly hours: 2h30 (Wednesdays) + 2h30 (Thursdays) - Theoretical Classes and Practical Classes

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**Intended learning outcomes:**

The core objective of this course is to provide students with a solid theoretical and practical knowledge about the foundations and the fundamental principles of Tax Law.

The program will focus on the **Portuguese Tax Law**, but **always adding a Comparative Perspective**. This approach will allow students to better understand the technical options available to the legislator and to get familiar with the international jargon used in the discipline. The relevant Portuguese technical jargon will, nonetheless, also be explained to students during the classes.

Overall, the course aims to **prepare students to work proficiently both with Portuguese Tax Law and with the Tax Law of other jurisdictions, preparing them for a global marketplace**.

In particular, the learning process will be focused on:



1. Understanding the nature of tax law and its core governing legal principles, legal sources and interpretative rules;
2. Developing a basic comprehension of the design elements involved in the structure of taxes;
3. Cultivating a basic understanding of the tax laws "*in motion*" through a reasonably in-depth study of the core structural elements of the Personal Income Tax and the Value-Added Tax (most especially in their Portuguese variants);
4. Developing a basic knowledge of the core principles and rules of European Tax Law and of International Tax Law;
5. Understanding the essential principles and rules of Tax Administration and Procedure;
6. Mastering the resolution of simple practical cases and the articulation of theoretical concepts with practical realities.

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### **Syllabus:**

The Course is divided into 3 main parts. In Part I, it covers the Foundations of Tax Law. In Part II, it focuses on understanding the tax laws "*in motion*", through a reasonably in-depth study of the core structural elements of the Personal Income Tax and the Value-Added Tax. In Part III, the Course covers the fundamental elements of Tax Administration and Procedure. In particular:

#### **PART I - INTRODUCTION TO TAX LAW AND POLICY**

##### **A. The Nature of Tax Law**

1. Theories justifying Taxation
2. The relationship between Tax Law and other branches of Law

##### **B. Tax Law Sources**

1. Constitution, international conventions, EU Law, national laws, and regulations
2. The role of court decisions and administrative decisions

##### **C. Fundamental Tax Categories**

1. Definition, main characteristics, and essential elements of Taxes
2. Taxes vs. fees vs. other contributions
3. Classification of taxes

##### **D. Principles of Taxation**

1. Legality, legal certainty, ability to pay and equivalence
2. Equity, efficiency and administrability

##### **E. Tax Law Interpretation**

1. Tax Law Interpretation
2. Tax Law Integration
3. Anti-abuse Clauses

##### **F. The Tax Legal Relationship**

1. The Tax Legal Relationship
2. The Parties to the Tax Legal Relationship
3. The Object of the Tax Legal Relationship
4. The constitution, change and termination of the Tax Legal Relationship

##### **G. Principles of Tax System Design**

1. Who will be taxed?
2. What will be taxed?

3. When will it be taxed?
4. How will tax be collected?

## **PART II – TAX LAW “IN MOTION”: THE PERSONAL INCOME TAX AND THE VALUE ADDED TAX**

### **A. The Personal Income Tax**

1. *Personal Income Tax Design Considerations*
  - a. Basic concepts
  - b. Taxable Income
  - c. Employment Income vs. Business and Investment Income
  - d. Miscellaneous Receipts
  - e. Tax Reliefs
  - f. Timing Issues
  - g. Tax unit
  - h. Rate schedule
  - i. Tax compliance and tax administration
2. *Types of Personal Income Tax Systems*
  - a. Comprehensive income tax
  - b. Dual income tax
  - c. Semi-dual income tax
3. *Core Basics of International Taxation*

### **B. The Value-Added Tax**

1. The Core Principles and Rules of European Tax Law
2. European VAT and National VAT Systems
3. The Determination Scheme of VAT
4. Taxable Person
5. Taxable Transactions
6. The Place of Supply
7. Taxable Amount and VAT Rates
8. Exemptions With and Without a Right of Deduction
9. The Person Liable for Payment of VAT: Main Rule and Reverse Charge
10. The Right of Deduction of Input VAT
11. The Process of Levying VAT
12. Administrative Obligations
13. Special Schemes

## **PART III – TAX ADMINISTRATION AND PROCEDURE**

### **A. Structure of Tax Administration Law**

### **B. Procedural Tax Law**

1. The general framework of tax procedures
2. Administrative tax procedures
3. Administrative Reviews and Judicial Appeals

### **C. Sanctions**

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*Evidence of the syllabus coherence with the curricular unit's intended learning outcomes:*

The three different Parts of the Syllabus have been structured to ensure the proper achievement of the curricular unit's intended learning outcomes.

Completion of Part I should guarantee that the student understands the nature of tax law and its core governing legal principles, legal sources and interpretative rules. It should also allow the student to develop a basic comprehension of the design elements involved in the structure of taxes.

With the completion of Part II, the student will be exposed to actual tax design and to the resolution of simple practical cases, thereby ensuring the articulation of theoretical concepts with practical realities. In this Part of the Course, the student will also be exposed to the basic principles and rules of European Tax Law and of International Tax Law.

In the Part III, the student will be able to comprehend the essential principles and rules of Tax Administration and Procedure, thereby obtaining an overall picture of the tax law process.

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***Teaching and assessment methods:***

The course is delivered in a mixture of lecturing and seminar style, adopting a Structural Approach (that is, emphasis will be laid upon the structural elements of the tax laws, using the laws of selected jurisdictions, mostly Portugal, but also other continental European jurisdictions, Australia, UK and USA, as practical exemplifications of the theoretical approaches).

Reading lists are provided for each class, students being strongly encouraged to read ahead and, then, take an active role in the classroom.

Learning will be consolidated and tested through class discussion and resolution of practical cases.

The assessment has two cumulative components: the Continuous Assessment and the Final Exam.

The Continuous Assessment occurs throughout the duration of the course. It evaluates the student's performance results in three areas: (i) judicious participation in classes; (ii) home assignments; and (iii) interim test. The Continuous Assessment grade corresponds to the average between the interim test (50%) and participation in classes and assignments (50%). The interim test is carried out during the regular class period and lasts for 60 minutes.

The Final Exam occurs in January.

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***Evidence of the teaching methods and the intended learning outcomes:***

The Structural Approach proposed will allow the analysis to be focused on the "raison d'être" of the rules, which should foster a more profound understanding of the tax system, and a stronger student engagement with the core problems posed by the tax laws. In turn, the discussion and resolution of simple practical cases will allow the student to articulate theoretical concepts with practical realities.

The **selected readings, which will be made available to students**, will support the student in understanding the different themes required to proficiently control the subject at hand as well as the technical terminology used in the discipline.

Lastly, the assessment methodology proposed should help to ensure a continuous involvement of the student with the subject under study.

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***Bibliography:***

**Mandatory Manual:**

PISTONE, PASQUALE, et al., *Fundamentals of Taxation: An Introduction to Tax Policy, Tax Law and Tax Administration* (IBFD. 2019)

**Other Sources:**

- ARNOLD, BRIAN J., *International Tax Primer* (Kluwer Law International, 4<sup>rd</sup> ed. 2019)
- AULT, HUGH J., et al., *Comparative Income Taxation: A Structural Analysis* (Kluwer Law International, 4<sup>th</sup> ed. 2019)
- AVI-YONAH, REUVEN, et al., *Global Perspectives on Income Taxation Law* (Oxford University Press. 2011)
- CHRISTIANS, ALLISON, *Introduction to Tax Policy Theory* (May 29, 2018). Available at SSRN: <https://ssrn.com/abstract=3186791> or <http://dx.doi.org/10.2139/ssrn.3186791>
- DIETER, ENDRES & SPENGLER, CHRISTOPH (ed.), *International Company Taxation and Tax Planning* (Kluwer Law International. 2015)
- OECD, *Fundamental Reform of Personal Income Tax* (OECD. 2006)
- THURONYI, VICTOR (ed.), *Tax Law Design and Drafting* (International Monetary Fund. 1996)
- THURONYI, VICTOR, et al., *Comparative Tax Law* (Kluwer Law International 2<sup>nd</sup> ed. 2016)
- VAN DOESUM, AD, et al., *Fundamentals of EU VAT Law* (Kluwer Law International 2<sup>nd</sup> ed. 2020)

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***Legislation and Jurisprudence:***

Collection of updated tax legislation, **which will be made available on Moodle to students**, including:

- Selected EU Tax Directives and Regulations;
- Relevant Portuguese legislation, translated into English;
- Examples of relevant tax laws of selected jurisdictions, including other continental European jurisdictions, Australia, UK and USA.

Selected Court Cases from the ECJ and from selected national Courts.