

INTERNATIONAL TAXATION AND TAX TREATIES

Dr. Preeti Lakhera [preeti.lakhera@jgu.edu.in]
Associate Professor

Credits: 4

Credits Type:

Cross-registration:

Pre-requisites:

This course requires a basic understanding of principles of taxation, the current economy, commercial laws, and international politics.

COURSE DESCRIPTION (COURSE VISION):

Globalisation and the age of digitisation have made business models more transactional. To remain competitive and grow expeditiously, spreading the business operations across the globe is no longer an option but a prudent choice for any business. Internationally structured businesses and individuals who have stakes in them need competent advice on the existing legal framework for international taxation and tax treaties. This involves guidance on efficient tax planning and the ability to avoid litigation with revenue authorities. This leads to growing demand for practitioners of international tax law and policy. This course will benefit students who are aspiring to specialise in financial laws and work in the corporate sector. And the students who want to work on international tax policy.

International tax is about the sharing of tax base between nations. This course introduces the students to basic International Taxation law concepts and salient features of Model Tax Treaties. It was initially conceptualised and developed by Prof. (Dr.) Gagan Khwatra. It will introduce the core principles governing the International Tax legal order and move on to understanding the strategies employed in International tax planning. It will then inform about the existing model tax treaty network and the work of organisations like the Organisation for Economic Cooperation and Development (OECD), the European Commission, and the United Nations in shaping the contemporary international tax framework. The students will understand how international tax policy can contribute in achieving distributive justice and reduce inequality by doing a fair distribution of wealth among nations. And critically analyse the existing international treaty framework and its shaping by economic and political considerations.

Some of the questions that will be discussed and debated will be about:

- Whether we can define the tax residency of a multinational conglomerate generating income across multiple jurisdictions.
- How can the income earned by a foreign company be taxed by a country where it is sourced? Do the tax treaties demarcate the tax jurisdiction fairly and equitably between

the developed and developing world?

- Is the international tax legal framework apt in combating tax evasion in the digital economy?
- Does the OECD's Project for Base Erosion and Profit Shifting have the potential to rewrite the entire international tax jurisprudence?
- What happens to the OECD twin pillar proposal when the world's leading trading nation like United States does not participate?

TEACHING METHODOLOGY:

A mixed approach, combining the Socratic and lecture methods, will be employed, though most portions will be delivered using the lecture method to ensure the entire breadth of the syllabus is covered. The case method of teaching will be employed for certain portions of the syllabus to analyse the emerging case law. Some concrete case studies and examples based on the relevant provisions of the Income Tax Act and DTAAAs will be discussed. One Module will be delivered through structured discussions and group activities to achieve learning outcomes.

INTENDED LEARNING OUTCOMES:

Learning Outcomes:

- a. An understanding of the normative and first principle questions that shape the international taxation legal framework.
- b. An understanding of relevant provisions in model treaties and domestic tax treaties and judicial precedents that have developed the knowledge of those provisions.
- c. Developing critical perspectives on how international tax law is created and implemented in our society.
- d. To give a strong foundational grounding in the contemporary concerns and debates around the legal framework for international taxation law

READING LIST (Tentative)

1. Avi-Yonah (1996) Reuven S. Avi-Yonah, The Structure of International Taxation: A Proposal for Simplification, 74 Texas L. Rev. 1301.
2. Reuven S Avi-Yonah, 'The Three Goals of Taxation' (2006) 60 Tax L Rev 1
3. Tsilly Dagan, 'The Tax Treaties Myth' (2000) 32 NYU J Int'l L & Pol 939
4. Sunita Jigarajan, 'Prelude to the International Tax Treaty Network: 1815-1914 Early Tax Treaties and the Conditions for Action' (2011) 31 Oxford J Legal Stud 679
5. Allison Christians, 'BEPS and the New International Tax Order' (2016) 2016 BYU L Rev 1603
6. Andrade, Betty, Developing Countries and the Proposed Article 12B of the UN Model: Some Known Unknowns (August 26, 2021). In: International Tax Studies (ITAXS). - Amsterdam. - Vol. 4 (2021), no. 6; 22 p
7. Andrew Hayashi & Young Ran (Christine) Kim, Taxing Digital Platforms, 26 Virginia Journal of Law and Technology, 1 (2023).
8. Yariv Brauner, 'Serenity Now! The (Not So) Inclusive Framework and the Multilateral Instrument' (2022) 25 Fla Tax Rev 489
9. Christians, Allison and Diniz Magalhães, Tarcísio, 17 Ways to Regulate Big Tech with Tax (February 28, 2024). The Tax Lawyer, Volume 78, No. 1, p. 1-69
10. Azam, Rifat, The Global Minimum Tax and Intra Western Tax Competition (May 23, 2025). Berkeley Journal of International Law, Volume 44, No. (2026)

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

MODULES	WEEK(S)
MODULE 1: JURISDICTION TO TAX	3 weeks
MODULE 2: MODEL TAX TREATIES	3 weeks
MODULE 3: OECD BEPS PROJECT	4 weeks
MODULE 4: EUROPEAN COMMISSION FRAMEWORK AND REFORMS	1 week
MODULE 5: UNITED NATIONS FRAMEWORK AND REFORMS	1 week
MODULE 6: INDIAN FRAMEWORK AND REFORMS	1 weeks
REVISION WEEK	Week 14