



COURSE DESCRIPTION

INTERNATIONAL TAXATION & TAX TREATIES

**SPRING 2026
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Course Code: L-EL-0052

Name of the responsible Faculty Instructor:

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With the increasing pace of globalization, cross-border trade and investment have become central to the modern economy. This has elevated the importance of international taxation, which governs how countries assert their sovereign right to tax income that spans multiple jurisdictions.

This foundational yet intensive course is designed to introduce students to the core principles of this field. The course aims to equip students for a career as a holistic tax professional. We aim to develop well-rounded individuals who are equally competent as a strategic advisor who provides prospective international tax planning and structuring advice, a skilled advocate who litigates complex treaty disputes before both domestic and international tribunals, and an informed policy-maker and adjudicator who contributes to global tax reform and domestic legislative drafting.

The course introduces the students to concepts of accounting, legal and economic forms of taxation, which form the essential intellectual triumvirate for truly mastering cross-border tax problems.

The very framework of the course is built upon examining the economic and legal rationales for the exercise of sovereign taxing power, immediately addressing the eternal standoffs that arise due to the competing claims of Source vs. Residence-based taxation rules. A cornerstone of the academic learning involves the understanding of the concept of double taxation, where a distinction must clearly be drawn between its juridical and economic forms—the same income being taxed by two different countries in one and the same person's hands, and the same income being taxed by two different countries in the hands of two different persons, respectively. During class hours, the ethical and legal spectrum of tax behavior will be analyzed in depth, drawing clear distinctions between illegal tax evasion and tax fraud, being a direct contravention of the statute-and permissible tax planning, versus the thorny "grey area" of tax avoidance—dealing with transactions specifically structured to defeat the spirit or purpose of the statute, which GAAR normally attacks. Thereinafter the course will deal with the upcoming notions of tax mitigations, and the bleak future of tax havens.

Although introductory, a key academic module delves deeply into the policy framework for designing any sustainable tax system, linking theory directly to practice. Students will engage in a critical analysis of the four critical factors for designing a tax system, as established in policy debates and class discussions: first, the analysis of Tax Rates, such as Progressive, Flat Rate, and Regressive, and Tax Base, looking at their impact in terms of macro-economic consequences for fiscal equity; second, the legislative and administrative response to the perpetual problem of Tax Evasion and Avoidance; third, assessing the economic cost versus benefit of leveraging the tax system to effect behavior modification through Tax Incentives and Subsidies; and fourth, the assessment of the effectiveness of the system at minimizing the Cost of Compliance and Administrative Costs, a key mandate for modern Tax Administration. A highly practical and essential component involves equipping students with the indispensable skill of how to read the Finance Bill. This process requires going beyond merely reading the final legislation; it involves a rigorous, three-step analysis starting with the Memorandum explaining the provisions of the Finance Bill—the "pink document"—key to understanding

original legislative intent, identifying the law before the proposed change, and grasping the rationale behind new tax rate adjustments or administrative measures.

The core technical segment is dedicated to mastering DTAAs, covering their sources, interpretation in terms of the Vienna Convention on the Law of Treaties, and the fundamental policy differences between the capital-exporting bias of the OECD Model Convention and the source-state bias of the UN Model Convention. The course analyzes the difficult issue of residence for both individuals and companies by discussing concepts like Place of Effective Management (POEM) and addressing criteria for determining split and dual residency in order to resolve treaty tie-breakers. A detailed, technically focused module on the taxation of a series of income streams under the treaty articles integrates necessary basic accounting terms to provide context: this includes Business Profits (Article 7) and the central concept of Permanent Establishment (PE)—the threshold for taxing business activity. This discussion is anchored by a dedicated module on the landmark 2025 Supreme Court judgment in Hyatt International Southwest Asia Ltd. vs ADIT, which has fundamentally reshaped the PE doctrine in India by laying down that a PE would be constituted even by 'virtual command' and 'sustained operational control', marking a significant shift toward giving economic substance primacy over asparagus physical presence. Further income streams analyzed include Dividends (Article 10), Interest (Article 11), and Royalties/FTS (Article 12), focusing on concepts of beneficial ownership and the crucial analysis of applicable withholding tax rates. Finally, Capital Gains (Article 13), understood as the profit realized from the sale of a non-inventory asset, is analyzed in the context of alienation of property and interests in entities like shares, including the vexed issue of indirect transfers.

A significant and greatly expanded section is dedicated to the BEPS Project—the biggest overhaul of international tax rules in a century. The course provides an intensive deep dive into every single one of the 15 BEPS Action Plans and their profound impact on India's tax regime. We study the evolution from BEPS 1.0 to the consensus on the Two-Pillar Solution for the digitalization of the economy: this includes Pillar One (re-allocation of taxing rights) and Pillar Two (GloBE) Global Minimum Tax Rate of 15%. We analyze the implementation challenges, including the Income Inclusion Rule (IIR) and Undertaxed Payment Rule (UTPR), and India's strategic policy choices concerning its domestic Minimum Alternate Tax (MAT) and tax incentives in light of these global rules. Furthermore, the Indian legislative response is detailed, including the introduction, expansion, and subsequent removal of the Equalization Levy (EQ Levy 1.0 and 2.0) to align with global progress, and the accession to the Multilateral Instrument (MLI) (Action 15) as the platform for incorporating minimum standards on treaty abuse (Action 6) and dispute resolution (Action 14). Other key action plans covered include Hybrid Mismatch Arrangements (Action 2), Controlled Foreign Company (CFC) rules (Action 3), Interest Deductions and thin capitalization (Action 4), and the overhaul of Transfer Pricing (TP) rules (Actions 8-10, 13) to ensure alignment with value creation. The last two modules deal with the very important functions of Tax Administration and resolution of cross-border disputes. This covers a detailed discussion of the framework for dispute resolution through the Mutual Agreement Procedure (MAP), the role of Advance Pricing Agreements to prevent disputes, and the transition from the erstwhile AAR to Board for Advance Ruling (BAR). The course ends with a very interactive and policy relevant debate on Taxpayers' Rights in the

contemporary digital world, with a specific focus on the increase in Automatic Exchange of Information under the CRS regime and the essential debate on whether this increased digitization and data sharing automatically warrant the need for a new international regime (a hypothetical "BEPS Action Plan 16") that protects taxpayer confidentiality and due process against the increased powers of tax authorities. By the end of this extensive course, the students will have the advanced level of practical and theoretical knowledge to function confidently and navigate the waters of the international tax spectrum.