

Ministry of Education and Science of Ukraine

Yaroslav Mudryi National Law University

Department of Financial Law

S Y L L A B U S

of the academic discipline

«Tax Disputes»

Level of higher education - second (master's) level

Degree of higher education – Master's degree

Field of knowledge - 29 «International Relations»

Specialty - 293 «International Law»

Status of the academic discipline - optional

Year of enrolment - 2022

Syllabus of the academic discipline «Tax Disputes» for students of the second (master's) level of higher education in the field of knowledge 29 «International Relations» of speciality 293 «International Law». Kharkiv: Yaroslav Mudryi National Law University, 2022. 12 pages.

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Head of the department - O.O. Dmytryk, Doctor of Law, Professor

Information about lecturers

| | |
|--|---|
| Title of the academic discipline | Tax Disputes |
| Status of the academic discipline | optional |
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| Consultations | According to the schedule of tutorials |
| Online consultations | During remote learning, tutorials are conducted using platforms such as Teams, Zoom, and others. |

Course description

The course explores the legal nature of tax disputes and their fundamental categories. It analyses the subject, principles, and sources of procedural regulation of tax disputes. Alternative methods of resolving tax disputes are identified. The scope of procedures for resolving tax disputes is outlined. The current judicial practice in resolving tax disputes is analysed.

The goal and objectives of the academic discipline

The goal of the academic discipline is the formation of knowledge about legal regulation and the basic principles of resolving tax disputes.

Objectives:

- Formation of a theoretical knowledge system regarding the correlation between legal phenomena such as «tax conflict» and «tax dispute»;
- Mastery of the tools used for resolving tax disputes;
- Identification of the scope of current issues in tax dispute resolution procedures;
- Explanation of the content and specifics of implementing administrative

procedures for tax dispute resolution;

- Investigation of applied problems related to court procedures in tax dispute resolution;
- Formation of abilities and skills regarding selection of the appropriate strategy for conducting court cases in tax dispute resolution;
- Analysis of the current case law of the European Court of Human Rights (ECtHR) concerning the resolution of tax disputes.

The academic discipline within the structure of the educational and professional program. Interdisciplinary connections.

Prerequisites: Legal Regulation of the Internal Market of the EU, Competition (Antimonopoly) Law, Tax Law.

Co-requisites: WTO Law, International Tax Law.

Post-requisites: EU corporate law and governance.

Expected learning outcomes of the higher education student

Upon completion of the course, the higher education student is expected to demonstrate the following learning outcomes:

Learning outcome-1. To define the concept of «tax dispute» and understand its relation to the concept of «tax conflict».

Learning outcome-2. To comprehend the substantive nature of objections to the inspection act and the procedure for their submission.

Learning outcome-3. To acknowledge the specificities of alternative methods for resolving tax disputes.

Learning outcome-4. To identify the peculiarities of the procedural algorithm of administrative proceedings in resolving tax disputes.

Learning outcome-5. To form a system of fundamental principles for challenging decisions of supervisory authorities.

Learning outcome-6. To be aware of the timelines for administrative procedures in challenging decisions of supervisory authorities.

Learning outcome-7. To determine alternative algorithms for resolving tax disputes and their implementation process.

Learning outcome-8. To formulate the structure and content of a taxpayer's statement of claim correctly.

Learning outcome-9. To differentiate judicial procedures in resolving tax disputes.

Learning outcome-10. To be familiar with key cases in the European Court of Human Rights (ECtHR) practice regarding the resolution of tax disputes by Ukrainian taxpayers.

Learning outcome-11. To be familiar with key cases in the ECtHR practice regarding the resolution of tax disputes by foreign taxpayers.

Learning outcome-12. To characterize the significance of ECtHR judgments as a source of law in national judicial proceedings.

**Types of educational activities and independent work
for full-time students**

| № | Classroom Sessions (Contact Hours) | | Independent Work (in hours) |
|---|--|--|--------------------------------|
| | Lecture Topics | Seminar Topics | |
| 1 | Concept of tax dispute | Concept of tax dispute | 12 |
| 2 | System of sources of tax law and their application specifics in resolving tax disputes | System of sources of tax law and their application specifics in resolving tax disputes | 10 |
| 3 | Alternative methods of resolving tax disputes | Alternative methods of resolving tax disputes | 10 |
| 4 | International approaches to resolving tax disputes | International approaches to resolving tax disputes | 10 |
| 5 | Administrative procedures for resolving tax disputes | Administrative procedures for resolving tax disputes | 10 |
| 6 | Court procedures for resolving tax disputes initiated by taxpayers | Court procedures for resolving tax disputes initiated by taxpayers | 10 |
| 7 | Court procedures for resolving tax disputes initiated by tax | Court procedures for resolving tax disputes initiated by tax authorities | 10 |

| | | | |
|---|---|---|----|
| | authorities | | |
| 8 | European Court of Human Rights (ECtHR) and its practice in resolving tax disputes | European Court of Human Rights (ECtHR) and its practice in resolving tax disputes | 10 |

Types of educational classes and independent work for students of the correspondence form of education

| № | Lecture Topics | Seminar Topics | Independent Work (in hours) |
|----------|--|--|------------------------------------|
| 1 | Concept of tax dispute | Concept of tax dispute | 110 |
| 2 | System of sources of tax law and their application specifics in resolving tax disputes | | |
| 3 | Administrative procedures for resolving tax disputes | Administrative procedures for resolving tax disputes | |

Independent work of students

Independent work of students is carried out in the following forms:

- Written completion of homework assignments;
- Mastery of theoretical material related to seminars;
- Further elaboration of lecture materials;
- Work in information networks;
- Study of additional literature;
- Development of case studies;
- Essays on narrow specialized topics;
- Creation of a portfolio of the course and its presentation;
- Writing essays, reports, and their presentation;
- Preparation and publication of scientific articles, abstracts of scientific reports;
- Participation in student scientific-practical conferences;
- Compilation of bibliographies on relevant topics;
- Summarizing judicial practice;

- Commentary on sources of international law, as well as Ukrainian and foreign national laws;
- Other forms of work.

Tasks and methodological recommendations for independent work are provided in the Methodological Materials on the discipline «Tax Disputes» for students of the second (master's) level of higher education in the field of knowledge 29 «International Relations» of speciality 293 «International Law».

Educational and methodological support of the academic discipline

Normative and legal acts

1. Конституція України: Конституція, Закон від 28.06.1996 № 254к/96-ВР в редакції від 01.01.2020. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

2. Податковий кодекс України: Кодекс України, Закон від 02.12.2010 № 2755-VI в редакції від 01.01.2021. URL: <https://zakon.rada.gov.ua/laws/show/2755-17/ed20210101>.

3. Кодекс адміністративного судочинства України: Кодекс України, Кодекс, Закон від 06.07.2005 № 2747-IV редакції від 15.08.2020. URL: <https://zakon.rada.gov.ua/laws/show/2747-15#Text>.

4. Про Конституційний Суд України: Закон України від 13.07.2017 №2136-VIII в редакції від 20.03.2020. URL: <https://zakon.rada.gov.ua/laws/show/2136-19#Text>.

5. Про виконання рішень та застосування практики Європейського суду з прав людини: Закон України від 23.02.2006 № 3477-IV в редакції від 02.12.2012. URL: <https://zakon.rada.gov.ua/laws/show/3477-15#Text>.

6. Порядок оформлення і подання скарг платниками податків та їх розгляду контролюючими органами: затверджений Наказом Міністерства фінансів України від 21.10.2015 № 916 в редакції від 12.02.2021. URL: <https://zakon.rada.gov.ua/laws/show/z1617-15#Text>.

7. Порядок оформлення результатів документальних перевірок дотримання законодавства України з питань державної митної справи,

податкового, валютного та іншого законодавства платниками податків-юридичними особами та їх відокремленими підрозділами: затверджений Наказом Міністерства фінансів України від 20.08.2015 № 727 в редакції від 13.07.2018. URL: <https://zakon.rada.gov.ua/laws/show/z1300-15#Text>.

8. Віденська конвенція про право міжнародних договорів. ООН, Конвенція, Міжнародний документ від 23.05.1969 р. Офіц. сайт Верх. Ради України. URL.: http://zakon2.rada.gov.ua/laws/show/995_118 .

9. Декларація про принципи міжнародного права, що стосуються дружніх відносин і співробітництва між державами відповідно до Статуту Організації Об'єднаних Націй. ООН, Декларація, Міжнародний документ від 24.10.1970 р. Офіц. сайт Верх. Ради України. URL.: http://zakon4.rada.gov.ua/laws/show/995_569.

10. Консолідовані версії Договору про Європейський Союз та Договору про функціонування Європейського Союзу з протоколами та деклараціями. URL.: https://zakon.rada.gov.ua/laws/show/994_b06

11. Статут Організації Об'єднаних Націй. ООН, Статут, Міжнародний документ від 26.06.1945 р. Офіц. сайт Верх. Ради України. URL.: http://zakon2.rada.gov.ua/laws/show/%20995_010.

Literature

Basic literature

1. Бондаренко О. М. Теорія та практика вирішення податкових спорів: концептуальні засади: монографія. Київ: «Видавництво Людмила», 2019. 484 с.

2. Фінансове право: підручник/ за ред. Т. Є. Кагановської та М. П. Кучерявенка; Харків. нац. ун-т ім. В. Н. Каразіна; Нац. юрид. ун-т ім. Ярослава Мудрого. - Харків: Право, 2022. 432 с.

3. Податкове право України: підручник / за ред.: Д.О. Гетманцева та М. П. Кучерявенка. Київ. нац. ун-т ім. Т. Шевченка ; Нац. юрид. ун-т ім. Ярослава Мудрого. Харків : Право, 2023. 464 с.

4. Музика-Стефанчук О. А., Полянничко А. О. Принципи податкового права України: проблеми визначення та реалізації. Кам'янець-Подільський : Рута, 2015. 212 с.

Additional literature

1. Брояков С. В. Оскарження до суду податкових консультацій як механізм забезпечення прав платника податків. *Вісник Чернівецького факультету Національного університету «Одеська юридична академія»*. 2019. № 1. С. 59–69. URL: http://jes.nuoua.od.ua/archive/1_2019/8.pdf

2. Кучерявенко М. П. До проблеми визначення юрисдикційності податкових спорів. *Фінансове право*. 2013. № 1 (23). С. 17 – 19. URL: https://dspace.nlu.edu.ua/bitstream/123456789/14605/1/Kucheryvenko_17-20.pdf.

3. Мінаєва О. М. Адміністративні процедури вирішення податкових спорів. *Право та іноваційне суспільство*. 2016. № 2 (7). С. 29–32. URL: <http://apir.org.ua/wp-content/uploads/2016/12/Minaieva7.pdf>.

4. Смичок Є. М. Презумпція правомірності рішень платника податків у практиці адміністративних судів. *Прикарпатський юридичний вісник*. 2020. № 3(32). С. 54–58. DOI: [https://doi.org/10.32837/pyuv.v0i3\(32\).603](https://doi.org/10.32837/pyuv.v0i3(32).603)

5. Смичок Є. М. Джерела «м'якого права» та їх вплив на формування судової доктрини. *Юридичний вісник*. 2020. № 4. С. 15–22. DOI: <https://doi.org/10.32837/yuv.v0i4.1966>.

Internet resources

The official web portal of the Verkhovna Rada of Ukraine - <http://rada.gov.ua>.

The official web portal of the President of Ukraine - <http://www.president.gov.ua>.

The official website of the Cabinet of Ministers of Ukraine - <http://www.kmu.gov.ua>.

The official web portal of the Supreme Court -
https://supreme.court.gov.ua/supreme/gromadyanam/perelik_sprav/.

The official web portal of the Constitutional Court of Ukraine -
<https://ccu.gov.ua/>.

The official website of the European Court of Human Rights -
<https://www.echr.coe.int>

SEEMC/CEHMK

Standardized electronic educational and methodological complex of the
 Department of Tax Law. URL:
[http://library.nlu.edu.ua/index.php?option=com_k2&view=itemlist&task=category
 &id=153:kafedra-finansovogo-prava&Itemid=151](http://library.nlu.edu.ua/index.php?option=com_k2&view=itemlist&task=category&id=153:kafedra-finansovogo-prava&Itemid=151)

Requirements of the lecturer

Higher education students are required to: regularly attend lectures and seminars; work systematically and actively during classes; provide persuasive arguments when solving tasks; perform written assignments, tests, and independent work properly. Seminars missed for valid reasons can be made up by prior agreement with the teacher.

Higher education students are recommended to: participate in scientific conferences, competitions of scientific works, work in the scientific circle of the department, moot courts, prepare abstracts for scientific presentations, etc.

A mandatory requirement for higher education students is to adhere to the norms of the «Code of Academic Integrity of Yaroslav Mudryi National Law University» https://nlu.edu.ua/wp-content/uploads/2022/01/kodeks_akademichnoi%CC%88_dobrochesnosti-1.pdf

During classroom sessions, the use of gadgets is allowed only for educational purposes (such as viewing lecture presentations). The use of laptops and tablets for

taking lecture notes and accessing necessary information is permitted.

Assessment

The assessment of the learning outcomes in the discipline “Tax Disputes” includes continuous and final control, based on an accumulative grading system.

Current assessment of knowledge includes:

- evaluating the quality of learning the course material by higher education students during seminars, using methods such as oral or written exams, express quizzes, solving practical tasks or problems, participating in case studies, and defending essays or reports on the topics chosen by the student. The aim of current assessment is to check the student’s level of mastering the material. During seminars, students can receive grades on a four-point scale (0, 3, 4, 5).

- Assessment of students’ understanding of the course material is conducted at the end of modules through quizzes, tests, or other forms of assessment.

Throughout the semester, higher education students complete assignments for independent work (prepare presentations, essays, reports, etc.). The maximum score for independent work is 20 points.

The form of final knowledge assessment for higher education students in the academic discipline is a credit. The minimum score required to pass the credit is 60 points.

Scale of final pedagogical assessment

| ECTS assessment grade | Definition | Grade (national scale for passing) | Grade (100-point scale used at NLU) |
|-----------------------|---|------------------------------------|-------------------------------------|
| A | Excellent – outstanding performance with only a few minor errors | Passed | 90 – 100 |
| B | Very good – above average level with some errors | | 80 – 89 |
| C | Good – overall correct work with some minor errors | | 75 – 79 |
| D | Satisfactory – satisfactory, but with significant shortcomings | | 70 – 74 |
| E | Adequate – meets minimum criteria | | 60 – 69 |

| | | | |
|----|---|--------|---------|
| FX | Unsatisfactory – improvement required before retaking not passed | Failed | 35 – 59 |
| F | Unsatisfactory – significant further work required, mandatory repetition of the course | | 0 – 34 |