

International Taxation and Customs

Ana María Delgado García
Rafael Oliver Cuello

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UOC teaching material

**Ana María Delgado García**

PhD in Law. Lawyer. Tax Consultant.

**Rafael Oliver Cuello**

PhD in Law. Certified Professor of Finance and Tax Law.

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Introduction

This subject analyses both issues relating to international taxation and those referring to customs duties. There can be little doubt over the close ties the two subjects hold with the growing importance acquired by international trade and, in general, with the increase in international relationships between companies and individuals.

The first module deals with general issues relating to international taxation and analyses the concept of *International tax law*. This is followed by an inspection of one of the key themes of the subject: the notion of *residence for tax purposes*. Closely related to this issue is the phenomenon of international double taxation. The module concludes with the study of a very important instrument in the sphere of international taxation: conventions to prevent double taxation.

Having analysed the general aspects of international taxation, the second module goes on to examine the tax imposed on income obtained by individuals and organisations not residing on Spanish territory. Thus in relation to income tax on non-residents, the analysis focuses on the income obtained in Spain and the exemptions included in the regulations, the figures of the taxable person, the guarantor, the representative and the withholder, and incomes obtained both with and without a permanent establishment. Finally, there is a study of the optional system for EU residents and the special tax on the property of non-resident organisations.

The third module examines a series of very important issues for what is known as *international tax planning*. After an analysis of this concept, the module continues by looking at transfer pricing and rules set in place to prevent tax evasion. It also deals with treaty shopping – a matter of growing importance in the current trade situation – and its consequences for taxation. The module ends with an examination of yet another very important aspect of present-day international taxation: tax havens and the rules for preventing tax evasion.

The final module examines customs duties, a subject on which there is a high level of harmonisation in the European Union. It analyses the nature and types of duties, the taxable event for customs duties, situations not subject to duties and exemptions, taxable persons and the effect of taxes, the quantification of customs debt and, finally, customs management.

Objectives

The main objectives for students to strive for when studying this subject are as follows:

1. To identify the criteria for determining residence for tax purposes and the domicile for tax purposes.
2. To recognise the personal elements involved in the taxation of non-residents.
3. To understand the taxation of non-residents operating with a fixed establishment.
4. To understand the taxation of non-residents when they do not operate with a fixed establishment.
5. To gain a clear picture of the optional taxation system for the residents of other Member States of the European Union.
6. To get to grips with the problems of international double taxation and the mechanisms for avoiding it.
7. To understand the tax system for related-party transactions.
8. To learn about the fiscal consequences of tax havens.
9. To distinguish the main features of the special tax on the real estate of non-resident organisations.
10. To find out about the structure, content and essential elements of customs duties.

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Abbreviations

AEAT Spanish Tax Agency (Agencia Estatal de Administración Tributaria).

Art. Article.

MCC Modernised Customs Code.

UCC EU customs code.

DTA Double tax agreement; a convention (or treaty) to prevent double taxation.

CE Spanish Constitution (Constitución Española).

DGT Directorate General of Taxation.

CJEU Court of Justice of the European Union.

EP Permanent establishment.

EU European Union.

GATT General Agreement on Tariffs and Trade.

IRNR Non-residents income tax (Impuesto sobre la Renta de No Residentes).

IRPF Personal income tax (Impuesto sobre la Renta de las Personas Físicas).

IS Corporation tax (Impuesto sobre Sociedades).

LGT General Taxation Act (Ley General Tributaria).

LIRPF Personal Income Tax Act (Ley del Impuesto sobre la Renta de las Personas Físicas).

LIVA Value Added Tax Act (Ley del Impuesto sobre el Valor Añadido).

OECD Organisation for Economic Cooperation and Development.

RIRNR Regulations on non-residents income tax (Reglamento del Impuesto sobre la Renta de No Residentes).

RIRPF Regulations on personal income tax (Reglamento del Impuesto sobre la Renta de las Personas Físicas).

TFEU Treaty on the Functioning of the European Union.

TRLIRNR Redrafted Text of the Non-Residents Income Tax Act (Texto Refundido de la Ley del Impuesto sobre la Renta de No Residentes).

TRLIS Redrafted Text of the Corporation Tax Act (Texto Refundido de la Ley del Impuesto sobre Sociedades).

TRLRHL Redrafted Text of the Regulation of Local Finance Act (Texto refundido de la Ley Reguladora de las Haciendas Locales).

UN United Nations.

VAT Value Added Tax.

WTO World Trade Organisation.

Glossary

exemption *n* Circumstances established in the regulations that prevent generation of the tax obligation even though the taxable event has occurred.

guarantor *n* Person who allies themselves with the taxable person to pay the tax debt if the latter defaults on payment.

not subject *adj* Circumstances in which tax is not paid because there is no taxable event. They are therefore circumstances defined as not being a taxable event.

permanent establishment *n* Fixed place of business through which a company carries out all or part of its activity.

substitute *n* Taxable person who is obliged by law to comply with tax obligations involving administration and payment instead of the taxpayer.

net taxable base *n* Result of applying the reductions established by law to the taxable base.

tax debtor *n* Person who must fulfil some type of obligation before the tax administration, either administrative or involving payment.

tax liability *n* Result of applying the tax rate to the taxable base or, as appropriate, the net taxable base.

tax rate *n* Element quantifying a tax which, applied to the taxable base or the net taxable base, serves to determine the tax liability.

taxable base *n* Element of tax quantification measuring the size of the taxable event.

taxable person *n* Person obliged to make tax payments as a taxpayer or substitute.

taxable event *n* Circumstances established in law as giving rise to the generation of the obligation to pay tax, including the manifestation of wealth or economic capacity.

taxpayer *n* Person behind the taxable event who has to pay the tax charge.

withholder *n* Person obliged to deduct sums from payments made to taxable persons and pay them to the tax agency.

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