

Tax Law of the Kyrgyz Republic (Law 411)

3 credits

Fall 2018

(subject to change)

Instructor: Kanykei E. Kasybekova

Class Schedule: Wed. 9:25

Office Hours: by appointment

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Course aims and Description

Tax law is a required course for students of fourth year of studies. The obligation to pay taxes is specifically stipulated in the main document of the state – Constitution of the Kyrgyz Republic (which article?). This is very interesting and complex subject, and it may either attract or repel the further interest in studying it more deeply. Being comparatively new state, there are still number of issues that do not have explicit answer, therefore, a careful search and analysis is necessary. The objective of the course is to introduce students to tax legal system of the Kyrgyz Republic and provide with the general picture of the tax system. During this course we will address basic principles and rules of the Tax Law with the focus on different types of taxes available in the Tax Code of the Kyrgyz Republic. Through the course we will study general introduction to tax system, its main elements as well as we will study different tax related issues provided in the Tax Code and other laws and regulations of the Kyrgyz Republic. Throughout the course, Tax law and system of the Kyrgyz Republic will be studied and where possible compared with the regulations provided in the Russian Federation, closest and most similar legal system.

Program and Course Learning Outcomes

Program Learning Outcomes

Graduates of the Law Program should have the following competencies:

1. carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession;
2. apply professional judgment, perform quality legal analysis, conduct legal research, and solve legal problems;
3. be able to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication;
4. draft normative legal acts and carry out their legal expertise in the field of professional activity;
5. interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity;
6. demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state;
7. understand the essence and significance of information in the development of modern society and law, master the basic methods of working with information and information technologies in the professional sphere.

Course Learning Outcomes

Upon successful completion of the course students will be able to:	Law Program Learning Outcomes
1. Describe and illustrate the tax system of the Kyrgyz Republic	1, 2
2. Identify and compare different sources of Tax law	1, 2, 3
3. Distinguish and understand the importance of the elements of taxes	1, 2

4. Describe, classify and compare the various taxes provided in the Kyrgyz Republic	1, 2
5. Analyze and interpret provisions of Tax law	1, 2, 3
6. Solve hypothetical situations and develop arguments using the relevant sources of law	3, 4, 5, 7
7. Research, critically asses, compare and interpret legal materials and court cases related to this area of law	3, 4, 6, 7

Teaching methods and requirements

There will be one class session per week. Each class will be conducted in the form of interactive lecture and discussions. Students will be provided with the reading materials and, therefore, students are required to come to classes prepared in advance having carefully read all the assigned material.

During the course students will be assigned different assignments. Apart from participating during the lectures and discussions, students may choose to prepare presentation on a specific topic – this will count toward their class participation grade.

In addition, students might be given half minute papers (several questions in order to see whether students are prepared for the class or understood a lecture) as well as hypothetical situations to solve and they are expected to be prepared to argue both sides of the hypothetical if necessary. This particular method will help students to apply law to different situations and effectively argue for any party of the dispute, which is a valuable skill for a good lawyer.

Apart from instructor and student presentations, students may have guest lectures of the practitioners-lawyers or accountants upon the availability of the latter, who will answer questions as well as reveal some problems.

Course Policies

- (1) **BE ON TIME.** Students are expected to come on time for the classes. If instructor marked the student absent in case that student is late for the class, she in considered to be absent for the whole class, unless excused by instructor. Student is allowed to be late by not more than 10 minutes.
- (2) **CLASS ATTENDANCE** is required. If the student misses a class with an excuse, a document explaining the absence must be presented to the instructor no later than the next class following the class during which the student was absent. If the requirements mentioned above are not observed, the student’s absence is considered to be unexcused. If the student misses more than 3 classes without an excuse or 50% of the whole course (irrespective of the reason for absence), the student will be assigned an “F” grade for the course.
- (3) Each student is required to be enrolled in the e-course system (e-course.auca.kg). The purpose of the e-course system is to allow students to get access to course materials, upload their course assignments, and benefit from a variety of interactive learning opportunities.
- (4) **WRITTEN ASSIGNMENTS** must be submitted by the set deadline and by the means specified by the instructor. Late submissions are NOT allowed. This rule applies to any student who was aware or should have been aware of an assignment and the deadline no matter whether he was sick or had any other excuse on the date of the deadline.
- (5) The student has to follow the AUCA Academic Honesty Code and the Law Division’s Policy on Plagiarism. All types of cheating (plagiarism, etc.) are strictly prohibited. If a student fails to observe this requirement, the instructor may assign an “F” grade for the work or an “F” grade for the whole course depending on the type of assignment and other circumstances.
- (6) **CELL PHONES** and any other electronic devices should be turned off or kept on a silent mode and are allowed to be used only for academic purposes unless restricted by the instructor.

Please, note that this syllabus is subject to change. Any changes to the syllabus will be announced in class, and the updated version of the syllabus will be available in the e-course. It is students’ duty to stay informed of any adjustments made.

Course Outline

Week 1 (Sept 6)	<p>Concept of Tax</p> <ul style="list-style-type: none"> - Decision of Constitutional Court of the RF on payments for technical examination of vehicles - Sergeev A.A. on Tax and non-tax payments: Con law aspects. - Chapter 2, Legal Framework for Taxation, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996 (identify who has power to make tax laws in the KR, which principles the Tax Code of the KR address.)
Week 2 (Sept 13)	<p>Tax principles. Tax Elements (tax base, tax rate).</p> <p>HA:</p> <ul style="list-style-type: none"> - Read Ch.14. Individual Income Tax, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996
Week 3 (Sept 20)	<p>Personal Income Tax</p> <p>HA:</p> <p>Ch. 6 Value Added Tax, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996</p> <p>Read Ch. 8 Excises, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996</p>
Week 4 (Sept 27)	<p>Voluntary Patent</p> <p>List of voluntary patents</p> <p>Social Polis Payments (international organizations)</p> <p>Reporting</p> <p>HA</p> <p>Ch. 16 Taxation of Income from Business and Investment, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996</p>
Week 5 (Oct 4)	<p>Corporate Income Tax</p> <p>HA</p> <p>International Aspects of Income Tax (Ch.18)</p> <p>Read OECD BEPS – Addressing Base Erosion and Profit shifting</p> <p>Read OECD BEPS – Executive Summaries</p>
Week 6 (Oct 11)	<p>Cash method</p> <p>Accrual method</p> <p>Depreciation</p> <p>Base Erosion and Profit Shifting</p> <p>HA</p> <p>Handouts on Transfer Pricing</p>
Week 7 (Oct 18)	<p>Transfer Pricing</p> <p>HA:</p> <p>Read “Controlled Foreign Company Regimes and Double Taxation” by John Prebble QC</p> <p>Read US Subpart F Legislative Proposals: A Comparative Perspective, Reuven S. Avi-Yonah</p> <p>OECD Report on CFC (Designing effective CFC Rules)</p>
Week 8 (Oct 25)	<p>Controlled Foreign Company Regime</p>

	HA Relevant articles of the Tax Code
Week 9 (Nov 1)	Special Tax regimes for CIT (optional: presentation) HA: Read Ch. 6 Value Added Tax, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996
Fall break	
Week 10 (Nov 15) Initiation (50 min classes)	VAT Handouts on VAT (hypothetical Scenarios)
Week 11 (Nov 22)	VAT Ch. 8 Excises, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996
Week 12 (Nov 29)	Sales Tax HA: Ch. 9 Tax on Land and Buildings, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996
Week 13 (Dec 6)	Land and Property Tax HA - Chapter 4. Law of Tax Administration and Procedure, Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996 (pay particular tax payer rights, and ability to settle disputes – what are those in the Kyrgyz Republic?) - Double tax treaties: Introduction What is Permanent Establishment? - Tax Administration in the Kyrgyz Republic ()
Week 14 (Dec 13)	Tax Inspections
Week 15 (Dec 20)	Final Exam

Sources

Legislative materials:

1. Tax Code of the KR. (with the most recent amendments); (must have for each class)
2. Other NLA on tax related issues.

Books and commentaries:

1. Tax Law Design and Drafting, Ed. Victor Thuronyi, International Monetary Fund, 1996, available at <http://www.imf.org/external/pubs/nft/1998/tlaw/eng/>
2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011;
3. Налоговое право: Учебник для вузов/Под ред. С.Г.Пепеляева. – М.: Фльпина Паблишер, 2017.

Recommended literature:

Журнал «Налоги и Право» - the issues of this journal are available in the library of the AUCA.

Students are also encouraged to visit the State Tax Agency web-site: www.sti.gov.kg, where they can find additional information on different taxes in the Kyrgyz Republic, as well as instructions on how to fill out different tax declarations and forms.

Оценочная шкала

1)

A	94-100%	B-	77-79%	D+	60-63%
A-	90-93%	C+	74-76%	D	54-59%
B+	86-89%	C	68-73%	D-	50-53%
B	80-85%	C-	64-67%	F	менее 50%

2) Grading will be based on following components:

10% - Attendance

30% - Research Paper (Court case analysis)

30% - Written assignments (depending on the # of the assignments – all of them are of equal 'weight')

30% - Final exam

10% - Attendance and participation

Students are required to participate and make comments, which will be specific, clear, related to the topic, thus contribute to class discussion. Depending on the level of contributions in class and level of preparation for the classes (exceptional, thorough, satisfactory, or inadequate), students will be evaluated accordingly. Exceptional participation can be considered when student substantively contributes to the class discussions and offers new directions for the discussion, showing that s/he read all homework assignment and thoroughly studied materials, including presentations for the assigned classes. Student's participation is thorough if s/he provides good contributions, showing that s/he read assignments. Student's participation is satisfactory if s/he satisfactory prepared for the class, and sometimes provides useful insights. Student's participation is inadequate if s/he is inadequately prepared for the class discussions and not prepared any home assignments.

Apart from the reading assignments indicated students are highly encouraged to look at the court decisions in the Kyrgyz Republic, specifically related to the topic of the class.

In addition, students might be given pop quizzes anytime during the semester in order to assess students' understanding of the course or to see students' preparation for the classes (reading homework assignments).

30% - Research Paper (Court Case Analysis)

At the beginning of the course the students are to be divided in two groups where each group is to undertake the analysis of the court decisions with the involvement of the tax authorities. Each student individually or a group of maximum two students is responsible to produce min 2000-2.500 words (single spaced, TNR 12, 1 inch margins) research paper on the topic related to tax law. In particular interest/topic suggestions are the issues of tax consequences of civil agreements (e.g. tax consequence of sales agreement, construction agreement). However, student may propose his/her own topic (e.g. interrelation of the Human Right issues and taxation, or comparative law issues).

The content wise the research paper may highlight (if applicable):

- Historical issues of the topic
- Position of the issue and its structure
- Possible reforms

The deadline to identify the topic for research is October 1, and the deadline for submission of the 1st draft is November 1, the deadline for submission of the final research Paper is December 1. No late submissions are to be accepted.

30% - Written Assignments

Students will be provided questions or hypothetical situations that they are required to answer. The answer should be made in the memo format to a senior lawyer. The replies should be formal answers to the questions presented with the reference relevant legislation. In answering the questions students may refer to the legislation of the Russian Federation (when necessary).

30% - Final Exam

By the end of the course students are going to have either in class or take home (to be decided by the end of the semester) final examination. If it is in class final examination, the examination can be either in the form of hypothetical situation, short answer essays or multiple choice questions. If it is take home exam, then students might be required either to answer open questions or submit a research paper on a given topic.

Individual/Team (max 2 person) presentation

During the course student or pair of students may deliver presentation on the any topic of one's choice. The choice should be based either on the topics, which are going to be covered or personal interest of a student. Presentation will be counted toward class participation grade. ***Presentation shall be made for the class, when the topic is to be covered.***

Bonus Assignment

No other bonuses are to be provided.