

Tax Law - Law 401
3 credits, Fall 2011
(subject to change)

Instructor: Kanykei Kasybekova
Class Schedule: Monday at 8.00
Wednesday/Friday at 10:50
Office Hours: by appointment
Contact Information: kasybekova_k@mail.auca.kg

Course Aims and Description

Tax Law is a required course designed for fourth year students. This course introduces students to tax legal system of the Kyrgyz Republic and provides with the general picture of the tax system for the further deep research by students themselves if needed.

During this course we will specifically 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. We will examine how the Tax Code operates as well as how the inspection of tax authorities is conducted, what are the rights and responsibilities of tax payers and tax authorities. Throughout the course, Tax law and system of the Kyrgyz Republic will be thoroughly studies and compared with the regulations provided in the Russian Federation, closest and most similar legal system.

Learning Outcomes:

By the end of the course students should be able to:

1. Describe and demonstrate an understanding of tax system of the Kyrgyz Republic
2. Identify and compare different sources of Tax law
3. Understand, distinguish and connect different elements of taxes
4. Describe, classify and compare the various taxes provided in the Kyrgyz Republic
5. Analyze and interpret provisions of Tax law
6. Formulate, differentiate and explain basic tax duties and responsibilities of tax payers, as well as of tax authorities
7. Solve hypothetical situations and develop arguments using Tax law principles and rules
8. Explain the differences between the tax system of the Russian Federation and Kyrgyz Republic
9. Research, critically asses, compare and interpret legal materials related to this area of law

Structure of the course

Since the course is aimed at introducing students to the taxation of the Kyrgyz Republic, it will start with the general concepts of taxation and tax as such. The tax has certain elements in it, which are needed to differentiate and study specific taxes existing in the Kyrgyz Republic. One of the complementary elements is subject of tax law; therefore, studies of who can be a tax payer or tax body, their duties and responsibilities should be studied. After learning some of the introductory information, we are going to proceed with a more complicated and detailed analysis of the actions with regard to the tax inspections. Consider if there is case of infringement of tax law, what are the

consequences of violating some rule? Therefore, the accountability issue will be analyzed as well as different appeal procedures.

Teaching methods, and Requirements

There will be three class sessions per week: one lecture and two seminar classes. Each class will be conducted in the form of interactive lectures and discussions. Students will be provided with the reading materials, therefore students are required to come to classes prepared, which means 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 should be prepared for student presentations, individual or group research work. Since not only law students will attend the course, the more deep and thorough understanding of the topic is desirable. One of the best ways of achieving the goal is working in the group research projects; where the students will be able at least deeply study one specific topic of his or her interest. (See, section “Grading and Examination”)

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. This particular method will help students easily 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 are going to have guest lectures of the practitioners-lawyers, who will answer questions as well as reveal problems.

Course Policy/ Academic Conduct

- (1) Students are expected to BE ON TIME for classes. If instructor marked the student absent in case that the student is late for the class, he is considered to be absent for the whole class, unless excused by instructor.
- (2) ATTENDANCE. Class attendance is required. If the student misses the class with an excuse, he shall provide necessary documents to prove it within a week after he/she missed a class. If the requirements mentioned above are not observed, student’s absence is considered to be unexcused. If the student misses 3 classes without excuse or 50% of the whole course (with and without excuse), student will be given an “X” grade for the course.
- (3) WRITTEN ASSIGNMENTS must be submitted to instructor by the deadline. The student may submit assignment late: at the latest by the next day after the deadline before 5 pm, in that case 1 point will be deducted from the final grade for the work (e.g., if your grade is “A” for the work, after deduction, your grade will be “B”). *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 a deadline.*
- (4) The student has to follow ACADEMIC HONESTY code. All types of cheating (plagiarism etc) **are strictly prohibited**. If a student fails to observe this requirement, instructor may give from an “F” for the work up to an “F” for the whole course depending on the type of assignment and other circumstances.

COURSE OUTLINE

Week	Topics, Reading assignments & Questions to consider	
1	<i>Mon., Aug.22:</i> Introduction to the Tax Law, organizational issues. History of taxation,	Select a country of your choice and make short presentation on its history of taxation.

	<p><i>Wend./Fri., Aug.24/26:</i> Human Rights and taxes</p>	
	<p>During this week the students are going to have a historical overview of why the taxes were created. Student will learn what was the first country introducing the tax and tax systems.</p> <p>Reading assignments</p> <ol style="list-style-type: none"> 1. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.6-17 2. Налоговое право. Миляков Н.В. М.: 2008, pp.9-15 3. Налоговое право: общая часть / курс лекций. Тютин Д.В. М.: 2008; pp.3-4 4. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.6-11 5. selected handout on Human Rights and taxes 	
2	<p><i>Mon., Aug.29:</i> Налог и сбор: понятие, основные черты, классификации Principles of taxation.</p>	<p><i>Find</i> difference between “налог” and “сбор” in the Kyrgyz legislation</p>
	<p><i>Wend./Fri., Aug.31/Sept.2:</i> Main elements of taxation:</p> <ul style="list-style-type: none"> - Object - Base - Period - Rate of tax - Procedure for calculation - Procedure and terms for payment 	
	<p>Each student has to have the understanding of what the tax is. Therefore, one should be able to distinguish the tax from any other fee collected by the different state bodies. What makes the tax so different? What are the main principles guiding the tax issues? During this week, the students will receive general introduction to what the tax is as well as what the main elements of tax are existing.</p> <p>Reading assignments</p> <ol style="list-style-type: none"> 1. Read Section I Chapter 1 (art.1-30) and 2 (art. 31-40) of the Tax Code; 2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.17-38 3. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.20-35 4. Налоговое право. Грачева Е.А. и др. М.:2005, pp. 28-38 	
3	<p><i>Mon., Sept.5:</i> Subjects of tax law. Taxpayers. State bodies. Subjects, contributing for the tax payment Duties and Responsibilities of tax payers and state bodies.</p>	<p>What do you understand under “лица, содействующие уплате налогов и сборов”? What are they under the KR legislation? (if any)</p>
	<p><i>Wend./Fri., Sept.7/9:</i> Tax Control: checks/inspection</p>	<p>Group presentations???</p>
	<p>Since the students know what are the main elements of tax, then what is the role of the subject of tax law? Who are those? Is the subject is also element of the tax? When does a person become a taxpayer? When does a person have to submit a tax declaration? Therefore, in order to answer to this questions, we will identify and analyze who are the taxpayers, what are the main state bodies responsible for ... collecting tax? For issues rules and laws on tax issues? In addition, we should learn what the main responsibilities of a person, or of a legal entity or of the tax agency are.</p> <p>Reading assignments</p>	

	<ol style="list-style-type: none"> 1. Read Section II Chapter 3 (art.41-46) and 4 (art.47-54) of the Tax Code of KR 2. Read Regulations on different tax state bodies 3. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.48-64, 162-182 4. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.36-56 5. Налоговое право. Грачева Е.А. и др. М.:2005, pp. 39-49 <ol style="list-style-type: none"> 1. Read Section IV of the Tax Code of KR 2. Read Положение О порядке проведения камеральных проверок должностными лицами налоговых органов по соблюдению налогоплательщиками налогового законодательства от 01.12.2008 3. Read Положение О порядке проведения и оформления материалов рейдового налогового контроля от 18.12.2008 4. Read Методические указания О порядке планирования и определения критериев отбора налогоплательщиков для проведения выездной проверки по соблюдению налогового законодательства КР уполномоченными должностными лицами ГКНС КР от 31.12.2008 5. Read Постановление Правительства КР о Порядке установления налогового поста от 05.06.2009 6. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.83-98 7. Налоговое право. Миляков Н.В. М.: 2008, pp.222-228, 236-247 8. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.61-76
	<p><i>Mon., Sept.12:</i> Tax accountability and infringement of tax law: general overview and consequences</p> <p><i>Wed./Fri., Sept.14/16:</i> Appeals of the tax inspection bodies.</p>
4	<p>What are the procedures of inspections? Who can conduct them? Who can be inspected? What are the major types of the inspections, if any? What are the consequences of following or not following the orders of tax inspectors? During this week we also are going to discuss the appeals. What in general can be appealed? Who we are going to appeal? Which body should we refer to? What are the procedures?</p> <p>Reading assignments</p> <ol style="list-style-type: none"> 1. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.99-118 2. Налоговое право. Миляков Н.В. М.: 2008, pp. 248-265 3. Налоговое право. Землин А.И. М.: 2005, pp.222-251 4. Налоговое право. Грачева Е.А. и др. М.:2005, pp. 129-132 5. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.77-79
	<p><i>Mon., Sept.19:</i> Отдельные налоги и сборы: Corporate Income Tax/ Налог на прибыль.</p> <p><i>Wed./Fri., Sept.21/23:</i> - hypothetical resolution, discussion</p>
5	<p>After learning what we are looking at, who should be responsible, we have to identify what exactly we should do. Since it is not only one tax that we have to deal with, the first tax that we are going to look at is profit tax. What are the main elements of this tax? How one should pay this tax? Who is responsible in paying this tax? During the seminar class</p>

	2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.137-139	
10	<i>Mon., Oct.31:</i> Excise tax	
	<i>Wend./Fri., Nov.2/4:</i> hypothetical resolution, discussion	
	Excise tax is the type of tax levied on particular things. What are those? Why only these goods were selected? Is this the only difference? Are there any exemptions? This and following several weeks we continue dealing with the specific taxes described in the Tax Code. Reading assignments 1. Read Section X of the Tax Code of KR 2. Положение о порядке выдачи и применения марок акцизного сбора в Кыргызской Республике от 30 декабря 2008 года № 735 3. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.130-134	
11	<i>Mon., Nov.7:</i> Land tax	
	<i>Wend./Fri., Nov.9/11:</i> hypothetical resolution, discussion	
	The land tax is levied on certain types of land plots. What is considered in paying this tax? What are the peculiarities of it? What does one have to take into account while dealing with this tax? Reading assignments 1. Read Section XIV of the Tax Code of KR 2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.142-148	
12	<i>Mon., Nov.14:</i> Property tax	
	<i>Wend./Fri., Nov.16/18:</i> hypothetical resolution, discussion	
	What is considered to be “property”? What does the Tax Code identify as a property? When does a person have to pay the property tax? Is it any time when s/he has something? Is there any threshold? What are the peculiarities of this particular tax? Reading assignments 1. Read Section XIII of the Tax Code of KR 2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.139-142	
13	<i>Mon., Nov.28:</i> Tax regimes: - compulsory patent - voluntary patent	
	<i>Wend./Fri., Nov.30/ Dec.2:</i> hypothetical resolution, discussion	
	What is the tax regime? What types of tax regimes do exist in the Kyrgyz Republic? Who can be eligible for the tax regime? What is a patent? What is the main difference between the compulsory and voluntary patents? Reading assignments 1. Read Section XV of the Tax Code of KR 2. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011,	

	pp.148-162	
14	<i>Mon., Dec.5:</i> Tax Planning. International Tax Law. Free Economic Zones	What are “оффшорные зоны”?
	<i>Wed./Fri., Dec.7/9:</i> Presentations of the group projects	
	What is Free Economic Zone? What it gives to an entity to make business in this particular zone? When can any entity conduct activities there? What is offshore? In there any difference between offshore and free economic zones? In addition, students will learn the contemporary issues of international taxation, what countries are trying to avoid, why they are concluding different tax agreements. Reading assignments <ol style="list-style-type: none"> 1. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011, pp.183-195, 38-43 2. Налоговое право. Миляков Н.В. М.: 2008, pp.270-316 3. Налоговое право России. Апрецова Н.Г. М.: 2008, pp.77-79 4. Мальцев В.А. Налоговое право. М.:2004. 	
15	<i>Monday, Dec.12:</i> Presentations of the group projects	Friday 12 am: SUBMISSION OF THE GROUP PROJECTS!
	<i>Wedn./Fri., Dec.14/16:</i> Presentations of the group projects	

Course Material

Legislative material:

1. Конституция Кыргызской Республики, Бишкек, 2010
2. Уголовный и Уголовно-процессуальный кодексы КР.
3. Налоговый Кодекс КР. Б. 2010;
4. Нормативно-правовые акты КР по налогам

Mandatory Literature:

5. Налоговое право Кыргызской Республики. Омуркожоева Г.Н. Б.: 2011
6. Налоговое право. Миляков Н.В. М.: 2008;
7. Налоговое право: общая часть / курс лекций. Тютин Д.В. М.: 2008;
8. Налоговое право России. Апрецова Н.Г. М.: 2008;
9. Налоговое право. Грачева Е.А. и др. М.:2005,
10. Налоги и право: раздел «Налоги». Учебное пособие, ОУ «Центр обучения ПНК». Б. 2010

Recommended Literature:

11. Что должен знать предприниматель о налогах? Гафиатуллина А.Р. Б.:2010
12. Вы работаете по патенту? Это для вас! Таранова Т.П. Б.: 2010
13. Винницкий Д.В. Российское налоговое право. СПб., 2003.
14. Артемов Н.И., Ашмарина Е.М. Правовые основы налогообложения в Российской Федерации. М., 2003.

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.

Grading and Examination

1) Grading scale:

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	below 50%

2) Grading will be based on following components:

10% - Participation during the classes

15% - Individual presentation

45% - Group Research Work / Paper and presentation (Group project)

30% - Mid-Term

10% - Participation during the classes

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.

15% - Individual/Team (max 2 person) presentation

During the course student or pair of students shall 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 shall be made for the class, when the topic is to be covered.*

45% - Group Research Work / Paper and presentation

On third or fourth week of the course students are to divide into groups. The groups should be composed of maximum five (5) persons. It is preferable that the groups will be composed on the basis of the interest in the possible topic of research. Therefore, it is strongly encouraged for students to come up with their own topics. However, if the students will face difficulties in selecting the topic, then the latter can be assigned by the instructor.

These groups will have to make thorough research on the any topic covered during the course, BUT the student **shall not** choose the topic where he or she made their individual presentations. By the end of the work students are going to make presentation and provide a group research paper.

Group research work and presentation will be considered as a final works of the students.

30% - Mid-Term

Before fall break students are going to have in class mid-term examination. Mid-term can be either in the form of hypothetical situation, short answer essays or multiple choice questions.

In addition, students might be given pop quizzes anytime during the semester in order to assess students' understanding of the course.