VNIVERSITAT DE VALÈNCIA

Course Guide
43185 Tax-related offences. Procedures of review

COURSE DATA

Data Subject	
Code	43185
Name	Tax-related offences. Procedures of review
Cycle	Master's degree
ECTS Credits	5.0
Academic year	2024 - 2025

Study (s)

Degree	Center	Acad. year	Period
2128 - Master's Degree in Corporate Law. Trade, Labour and Tax Consultancy	Faculty of Law	1	First term
2901 - Double Master's Degree Programme in Law and Procurement-Corporate Law Comme	Faculty of Law	2	First term

Subject-matter

Degree	Subject-matter	Character
2128 - Master's Degree in Corporate Law. Trade, Labour and Tax Consultancy	16 - Tax-related offences. Procedures of review	Optional
2900 - Double Master's Degree Programme in Law Practice and Corporate Law Commerci	5 - Specialty in Tax Consultancy	Optional
2901 - Double Master's Degree Programme in Law and Procurement-Corporate Law Comme	5 - Specialty in Tax Consultancy	Optional

Coordination

Name	Department
HERNANDO CEBRIA, LUIS	70 - Mercantile Law 'Manuel Broseta Pont'
MACHANCOSES GARCIA, ESTER	60 - Financial Law and History of Law

SUMMARY

In its first part, this subject addresses tax offences, both in their dimension of administrative offences, with their sanctions and the procedure to classify and impose them, and in the criminal sphere.

In the second part, the review procedures in administrative proceedings are detailed, both at the local level and at the local and state level. Finally, some particularities of the contentious procedure in tax matters are detailed.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

Those specific to the Bachelor's or Degree in Law in the areas and content that make up the subject, or, at least, those of the Bachelor's or Degree in Business Studies, supplemented, where appropriate, with general legal notions on procedures for infractions and crimes in tax matters and review procedures.

COMPETENCES (RD 1393/2007) // LEARNING OUTCOMES (RD 822/2021)

2128 - Master's Degree in Corporate Law. Trade, Labour and Tax Consultancy

- Students should demonstrate self-directed learning skills for continued academic growth.
- Conocer y usar con fluidez las categorías, prescripciones y procedimientos relevantes para cada caso y sus antecedentes y soluciones más significativas.
- Elaborar y manejar los escritos, informes y procedimientos de actuación más idóneos para los problemas suscitados.
- Participate in, lead and coordinate debates and discussions, be able to summarize them and extract the most relevant conclusions accepted by the majority.
- Proyectar sobre problemas concretos sus conocimientos y saber resumir y extractar los argumentos y las conclusiones más relevantes para su resolución.
- Saber identificar conflictos de intereses y conocer las técnicas para su resolución, establecer el alcance del secreto profesional y de la confidencialidad, y preservar la independencia de criterio.

LEARNING OUTCOMES (RD 1393/2007) // NO CONTENT (RD 822/2021)

La idea de círculos concéntricos que venimos manejando se expande, en este caso, una vez conocidos los procedimientos y las actuaciones que en materia tributaria pueden afectar a la empresa, a identificar los límites administrativos y penales de sus conductas, así como a los cauces de resolución

de conflictos y controversias con las Administraciones tributarias.

La especialidad de este aspecto justifica que la materia se aborde, básicamente, desde la disciplina jurídica que se ocupa del mismo, sin perjuicio de que algunas otras completen los conocimientos y las competencias que con esta materia se quiere que asuman los estudiantes.

DESCRIPTION OF CONTENTS

1. Tax violations: Nature and types

2. Tax sanctions

3. Sanctioning procedure

4. Crimes against the Public Treasury

5. Money laundering and smuggling crimes

6. Procedures for the review of public finances

7. Special review procedures

8. Refund of undue income

9. Replacement resource

10. Económic-administrative procedure

11. Specialities of the tax tiligation

WORKLOAD

ACTIVITY	Hours	% To be attended
Theory classes	35,00	100
Development of group work	30,00	0
Preparation of evaluation activities	35,00	0
TOTAL	100,00	

TEACHING METHODOLOGY

MD1 – Training tasks of the teaching-learning process prior to classroom interaction.
MD2 – Training tasks of the teaching-learning process in the classroom interaction process.

MD1 – Training tasks of the teaching-learning process prior to classroom interaction.

Firstly, the teaching methodology must be suitable for focusing, from the beginning, on the problem to be addressed, presenting its different facets, which will be developed by each discipline involved. To do this, in each subject, the teachers who start it must explain the problematic cores that are going to be addressed in it, as well as – in the case of legal subjects – the values and normative purposes pursued by the system when regulating and trying to resolve said problems. It is inconceivable that a teaching-learning process of Law should avoid, under the guise of mere legal technique, the treatment of the values that inspire the legal system, the social needs that it must resolve and the criteria on which it bases the solutions it adopts. For this reason, from the very beginning, the professor has the role of revealing and explaining these dimensions in advance. In a word, what operational pedagogy summarises as “presentation of the subject matter” and of the values that shape and explain it.

Secondly, in relation to the above, due to the theoretical-practical content of most of the subjects, and due to the legal knowledge that the Master's students already have, master lectures that place them within the framework of the legal system, which they already know, are not advisable. For this reason – as described in each subject – only a small part of the weekly class hours can be called theoretical. Its content, however, cannot be limited to an abstract presentation of the legal system, but rather to highlighting and presenting its relevant rules and its application criteria for the problems to be addressed. Therefore, it must focus on establishing certain key legal categories or institutions for the resolution of the problems addressed in that subject; at the same time it can serve as a reminder to students or as an introduction to those who were trained in legal systems other than the Spanish one. The bulk of the teaching in the classroom, however, is covered by the debate of materials and by the resolution of cases and assumptions previously provided to the student. Hence, the teaching methodology has as a central aspect the selection by the teacher of the most suitable materials for the preparation of the debates and the selection and resolution of the most representative problems, without prejudice to the fact that, on occasions, part of the learning consists of the students themselves having to make that selection, but limited by the teachers from among the huge variety of resources and sources available. Thirdly, in order to prepare these debates and problem-solving, teamwork by students also becomes a training tool, allowing them to consolidate transversal skills of the degree and assume a work dynamic that they will surely find in their subsequent activities. The distribution and assignment of tasks among the members of the group, the contribution of each member, their debate and discussion within the group, their coupling to different groups throughout the Master's degree and the conjunction of all this for their orderly presentation or their joint treatment to solve the problems are skills that are sought to be developed throughout their stage as Master's students.

Fourthly, and transversally to all subjects - in addition to the specific complementary ones - they must also reinforce their capacity for the use of new technologies, so that both in the offer and selection of materials and in their use and presentation of the results achieved, the use of instruments such as the virtual classroom, the management of databases, electronic consultations, the presentation of panels or slides, etc. is encouraged.

MD2 – Training tasks of the teaching-learning process in the classroom interaction process

In line with the focus of the Study Plan, the teaching methodology must be aimed at placing them in a position to discover and progress in solving the problems posed by themselves. To do so, it is essential to imbue them with rigor in reasoning, clarity in the separation of different aspects, so that they do not make logical leaps or “prejudices” about the content or interpretation of the relevant rules, and, ultimately, so that they are capable of reaching and offering their own solution through adequate technical-legal reasoning and values and principles. In an environment as changing as the regulatory framework of the company and its activity, “learned” solutions can be of little value, and emphasis must be placed on their ability to extract by themselves, at any given time, from each regulatory framework in force, and for each specific problem posed, the most advisable solutions, even with the margin of debate or even uncertainty that the legal system often presents, and which leads to disparate solutions depending on the legal operators or the position they occupy as law enforcers. For this reason, the evaluation system, especially in the first three subjects, is built on the original contribution of each student in the memory that they have to defend and in the treatment of the problems that they themselves have raised, instead of limiting itself to checking whether they have acquired limited knowledge “transmitted” by the teachers.

Therefore, classroom debate on the materials and problems previously provided by the teacher and worked on by the students becomes the core of the teaching-learning process, although, obviously, it contributes little without the fulfillment of the previous tasks outlined. The role of the teacher in these debates must be that of true moderator, and not that of a mere spectator who attends the presentation of positions or opinions by the students. He must strive to focus on the different aspects of the debate and to organize it; to refine the reasoning that they present, either to extract all their conclusions from them, or to show that they do not lead to acceptable solutions within the framework of the order; to highlight the consequences that they did not notice of the solutions they propose; and, finally, to recapitulate and close the debate with acceptable collective conclusions, avoiding leaving open questions that could convey the impression that "everything is debatable." Although it is true that the rules are sometimes susceptible to different interpretations, the legal system is a framework of binding precepts, with clear limits on what is not admissible.

Finally, without falling into the case method, which does not correspond to our legal system, which is codified and has very developed and precise normative bodies for the different legal areas, the discussion of problems cannot ignore, where appropriate, the jurisprudential background and the solutions given by advisory bodies, so the debate and the solutions in the classroom must address the whole legal phenomenon, integrating, together with the rules, legal experience, the external effects of said rules and their impact on the specific situation in which the legal system must be applied and for which the specialized professional is asked for advice. Therefore, the complementarity of the various legal aspects of a problem cannot be ignored by focusing on one main aspect and without knowing the consequences that it may have in other dimensions, when, in reality, practically all the decisions and options of a company must take into account these various legal aspects and their consequences. Therefore, the problems themselves and, above all, their approach and solutions, must be built on the basis of this plurality of aspects, imbuing students with the need for comprehensive advice that does not neglect any of them.

EVALUATION

SE1 - Attendance at classes is an essential requirement for being assessed, with a minimum of 80% of sessions required. Below this minimum, and unless there are justified reasons, the student will not be assessed, appearing in the minutes as not present.
SE3 -Separate assessment through continuous assessment and specific tests for solving cases or reports, distributed in advance and to be defended on the day of the assessment.
SE4 – Continuous assessment, without prejudice to the fact that tests, exercises or resolution of specific questions may be required throughout the sessions.

The assessment will be carried out jointly for the subjects comprising each of them through continuous assessment and a final assessment test. A minimum pass mark in the final test will be required to pass the subjects of the module.

The student's participation in the teaching activities carried out in class will be a requirement for being assessed, with a minimum attendance of 80%.

Continuous assessment will allow students to obtain up to three points of the final grade for the module, and must be made up of at least three tests or activities that allow for subsequent verification and which will be specified by the coordinator of the specialty according to the weight of each subject in the module as a whole. Along with these, other tasks may be specified, both in class and to be carried out by the student outside of class, which may contribute to said continuous assessment.

The final test, which will be worth up to seven points, will consist of completing a report in class on a case provided with sufficient advance notice. In the test, students will be asked to answer a maximum of five questions in relation to it. At the discretion of the specialty coordinator, the case may be unique for all subjects or broken down into several cases on the different subjects of the specialty. Only normative texts and printed material will be allowed.

REFERENCES

Basic

- MARTÍN QUERALT, LOZANO SERRANO (+), TEJERIZO LÓPEZ, CASADO OLLERO, ORÓN MORATAL: Curso de Derecho Financiero y Tributario, Ed. Tecnos, Madrid, última edición.
  MARTÍNEZ-BUJÁN PÉREZ, C.: Derecho penal económico y de la empresa. Parte especial, ed. Tirant lo Blanch, última edición.

Additional

- Bibliografía complementaria o de referencia: Dados los incvesantes cambios normativos, se facilitará al inicio de cada materia.

  Lecturas: artículos y monografías que tratan específicamente alguno de los aspectos incluidos en el tema. Su lectura permitirá al alumno tener una visión mucho más amplia y rica de los contenidos de la materia expuestos en clase o abordados en la bibliografía básica. Tienen por objeto completar la información de los textos de la bibliografía básica, ampliando los aspectos más relevantes y ofreciendo, al mismo tiempo, una visión actualizada de los temas en la medida en que los mismos lo requieran.

  Casos prácticos: proporcionan al estudiante la posibilidad de ejercitar su capacidad de análisis y decisión sobre situaciones reales que pueda plantear el material facilitado, aplicando los conocimientos teóricos que haya adquirido.

  Resoluciones judiciales o de órganos administrativos: reflejan los criterios con los que los Tribunales o la Administración aplican la normativa jurídica.