

**Ministry of Education and Science of Ukraine  
Yaroslav Mudryi National Law University**

Department of Financial Law

**WORK PROGRAMME 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»

**Speciality** - 293 «International Law»

**Status of the academic discipline** - optional

**Year of enrolment** - 2022

Kharkiv 2022

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### 1. Description of the academic discipline

The work programme of the academic discipline «Tax Disputes» has been developed in accordance with the educational-professional programme «International Law» of the second (master's) level of higher education in the field of knowledge 29 «International Relations» of specialization 293.

Title of indicators	Field of knowledge, speciality, level of education	Didactic structure of the educational discipline	
		Full-time form	Correspondence form
Number of ECTS credits – 4,0	Field of knowledge - 29 «International Relations»	optional	optional
Number of modules – 2		Year of training: 2022	Year of training: 2022
	Speciality - 293 «International Law»	semester	semester
Total hours - 120		1-3	1-3
Weekly hours for full-time form: In a classroom – 2 - 4, independent work - 6 - 8.	Level of higher education - second (master's) level	<b>Lectures</b>	<b>Lectures</b>
		18 hours	6 hours
		<b>Seminars</b>	<b>Seminars</b>
		20 hours	4 hours
		<b>Independent work</b>	<b>Independent work</b>
		82 hours	110 hours
		Types of assessment: current assessment; final assessment (credit)	Types of assessment: current assessment final assessment (credit)

**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.

**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.

## **2. Expected learning outcomes**

As a result of mastering the academic discipline, the student of higher education must 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 understand the specifics of objections to the audit report and the procedure for their submission.
Learning outcome - 3.	To comprehend the specifics of alternative methods for resolving tax disputes.
Learning outcome - 4.	To identify the peculiarities of the procedural algorithm for administrative proceedings in resolving tax disputes.
Learning outcome - 5.	To establish a system of basic principles for appealing decisions of supervisory authorities.
Learning outcome - 6.	To be aware of the time limits for administrative procedures in appealing decisions of supervisory authorities.
Learning outcome - 7.	To determine alternative algorithms for resolving tax disputes and the order of their implementation.
Learning outcome - 8.	To be able to correctly formulate the structure and content of a taxpayer's claim statement.
Learning outcome - 9.	To differentiate between judicial procedures in resolving tax disputes.
Learning outcome -10.	To be familiar with key cases in the European Court of Human Rights' jurisprudence regarding the resolution of tax disputes involving Ukrainian taxpayers.
Learning outcome -11.	To be familiar with key cases in the European Court of Human Rights' jurisprudence regarding the resolution of tax disputes involving foreign taxpayers.
Learning	To characterize the significance of European Court of Human Rights'

outcome -12.	decisions as a source of law in national judicial proceedings.
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The teaching of the academic discipline ensures the formation of general and special competencies in the student of higher education and the achievement of learning outcomes determined by the standard of higher education of the relevant speciality and the educational and professional programme «Law» namely the following:

***General competencies (GC):***

GC 1. Ability to think critically, analyse and synthesize.

GC 2. The ability to identify and solve problems arising in the professional sphere, to formulate and ask questions for their further solution.

GC 6. Ability to work effectively in an intercultural environment, including developing and managing international projects.

GC 7. Ability to conduct research at an appropriate level.

GC 9. The ability to solve problems of an innovative nature and to find alternative solutions in professional activities.

GC 10. The ability to work (collect, receive, systematize and synthesize) with various information and large volumes of information from various sources, analyze and critically and constructively evaluate it, taking into account the cross-cultural characteristics of the subjects of international relations.

GC 11. Ability to use the latest information and communication technologies for professional purposes.

GC 12. The ability to formulate a personal opinion and present it with evidence.

GC 15. The ability to understand the specifics of the subject area and professional activity, to make well-founded, balanced decisions and to be aware of their ethical consequences.

GC 16. The ability to communicate with representatives of other professional groups of different levels, from other fields of knowledge and activities, as well as the ability to work in an international professional environment.

***Special (professional, subject) competencies (SpC):***

SpC 1. The ability to critically analyse the problems and patterns of the functioning and development of international relations, to determine the trends in the development of world politics, to assess the impact of global political processes on national legal, political and economic systems.

SpC 3. The ability to independently provide legal representation of the interests of individuals, legal entities or the state when considering cases in national and international institutions and organize the provision of legal services.

SpC 4. The ability to comprehensively use highly specialized knowledge in specific areas of regulation of international public law, international private law, and European law to solve applied problems.

SpC 7. The ability to represent the interests of Ukraine or individuals and legal entities in international judicial institutions, arbitrations, national courts of foreign countries.

SpC 8. The ability to work and represent the interests of Ukraine in international intergovernmental organizations.

SpC 11. The ability to ensure the implementation of international legal standards in certain areas of national legislation.

SpC 12. The ability to conduct research and/or introduce innovations in various fields and institutions of public international law, private international law, EU law.

SpC 14. The ability to apply an interdisciplinary approach in the assessment of international legal phenomena and international relations using legal tools.

SpC 19. The ability to self-study, receive lifelong education, improve and improve the level of one's qualifications.

SpC 20. The ability to provide a proper legal assessment of evidence in a legal case and in a specific procedural situation, the ability to work with evidence, to solve problems related to the planning and organization of the legal process, the resolution of a legal case within different jurisdictions.

***Programme Training Outcomes (PTO):***

PTO 1. To analyse multifaceted problems of international and national legal content and propose ways to solve them.

PTO 4. To understand the international legal situation, forecast its development, professionally and critically evaluate events and phenomena in the field of international relations and world politics, using legal tools.

PTO 5. To provide legal representation of the client in national courts, international commercial arbitrations, state authorities and local self-government bodies.

PTO 8. To prepare drafts of international treaties and acts of national legislation, to provide proposals for eliminating conflicts between the norms of international law, as well as for bringing the norms of national law into compliance with the norms of international law.

PTO 11. To demonstrate communication skills with representatives of other professional groups of different levels, other fields of knowledge and types of activities, as well as the ability to work in an international, intercultural environment; to organize and conduct negotiations.

PTO 13. To acquire new knowledge throughout life, to raise the level of own qualifications.

PTO 15. To characterize different legal systems and mechanisms of their interaction; to know the features of the international regulatory system and the place of International Law (public/private) and European Union Law in it.

PTO 16. To determine the content and legal nature of national normative legal acts, international treaties and other international documents, to identify conflicts between the norms of international treaties, between the norms of an international treaty and acts of national legislation, and propose ways to resolve them.

PTO 17. To carry out research on international legal topics, using primary sources and methods of legal interpretation of complex problems arising from this research, justify the conclusions and present the results of the research.

PTO 19. To demonstrate knowledge of the evolution, current state and

prospects for the development of legal regulation of various spheres of international cooperation, to be aware of the consequences of the convergence of legal systems in the conditions of globalization and regional integration.

### **3. Content of the academic discipline**

Module 1. General provisions on the resolution of tax disputes.

*Concept of a tax dispute.* Definition of the concept of a tax dispute. Relationship between tax disputes and tax conflicts. Public and private interests in tax dispute resolution procedures. Participants (subjects) in tax dispute resolution procedures. Legal status of the controlling authority as a participant in tax dispute resolution procedures. Legal status of the taxpayer as a participant in tax dispute resolution procedures. Types of tax disputes. Stages of a tax dispute. Administrative and judicial procedures for resolving tax disputes. Alternativeness of tax dispute resolution procedures. Initiating party of a tax dispute. Ambiguity (pluralism) of interpreting provisions of tax legislation as grounds for a tax dispute: 1) conflicts in tax law; 2) gaps in tax law; 3) evaluative concepts in tax law.

*The system of sources of tax law and the rules of their application in resolving tax disputes.* The system of sources of tax law and rules for their application in resolving tax disputes. The Constitution of Ukraine and its role in tax dispute resolution procedures. International treaties as sources of tax law applied in resolving tax disputes. The Tax Code of Ukraine as a regulatory legal act that defines procedures for resolving tax disputes. The Code of Administrative Procedure of Ukraine as a special procedural act that defines judicial procedures for resolving tax disputes. Subordinate normative legal acts and their role in resolving tax disputes. Judicial practice and its significance for the purposes of legal application within tax-related legal proceedings.

*Alternative methods of resolving tax disputes.* Mediation procedures in resolving tax disputes. Tax arbitration in resolving tax disputes (distinction from tax mediation). The history of the establishment of tax mediation as a method of resolving tax disputes. Participants in mediation procedures for resolving tax disputes. Principles of tax mediation. Stages of mediation procedures in resolving

tax disputes. International experience in the application of tax mediation. Feasibility of implementing mediation as a procedure for resolving tax disputes. Specific elements of procedures for considering objections to the audit report as quasi-mediation procedures.

*International approaches to resolving tax disputes.* Tax disputes in countries with a civil law system. Tax disputes in countries with a common law system. Authorities involved in resolving tax disputes. International approaches to defining sources of law applicable in resolving tax disputes. Typology of procedures used to resolve tax disputes in countries with a civil law system and common law system. Procedures for resolving tax disputes in the European Union (EU).

Module 2. Types of procedures for resolving tax disputes: administrative procedures and judicial proceedings.

*Administrative procedures for resolving tax disputes.* Sources of law that determine the procedure for administrative resolution of tax disputes. Fundamental principles of administrative procedures for resolving tax disputes. The presumption of lawfulness of taxpayer's decisions and their role in administrative procedures for resolving tax disputes. Legal grounds for administrative appeal of decisions by controlling authorities. Stages of administrative procedures for resolving tax disputes. Participants involved in administrative procedures for resolving tax disputes. Procedural time limits for administrative appeal of decisions by the controlling authority: primary and additional procedural time limits. Documentation of the results of administrative procedures for resolving tax disputes.

*Judicial procedures for resolving tax disputes brought by taxpayers.* Sources of law that determine the judicial process for resolving tax disputes. Key principles of judicial procedures for resolving tax disputes: principles of administrative justice and principles of tax legislation. Issues of judicial jurisdiction in resolving tax disputes. Administrative jurisdiction as a specialized jurisdiction for resolving tax disputes. Cases of resolving disputes by general jurisdiction courts and economic courts. Stages of judicial procedures for resolving tax disputes. Precedent and its significance in judicial procedures for resolving tax disputes. Evidence in tax

disputes. Specifics of the procedural status of taxpayers. Specifics of the procedural status of the controlling authority. Judicial doctrines and their significance in resolving tax disputes. Doctrine of tax benefits. Doctrine of taxpayer good faith. Doctrine of beneficial owner. Doctrine of special tax procedural time limits. Doctrine of the presumption of taxpayer lawfulness. Doctrine of business purpose.

*Judicial procedures for resolving tax disputes initiated by tax authorities.*

General principles of proceedings initiated by tax authorities. The controlling authority as the plaintiff in tax disputes. Application for the suspension of payment transactions by the taxpayer on the taxpayer's accounts. Application to confirm the validity of administrative seizure of the taxpayer's property. Application for permission to settle the entire tax debt from the taxpayer's property held as tax collateral. Application for recovery of funds for tax debt. Application for the taxpayer with tax debt to enter into an agreement to transfer the right of claim for the debtor's indebtedness to the tax authority. Application for the establishment of temporary restrictions on the director of a legal entity or a permanent representative of a non-resident debtor's right to leave Ukraine. Specifics of judicial procedures in cases initiated by the controlling authority. Procedural time limits in proceedings initiated by tax authorities. Procedure for involving taxpayers in judicial proceedings initiated by tax authorities.

*The European Court of Human Rights (ECHR) and its practice in resolving tax disputes.* Legal status of the ECHR. ECHR practice in the system of sources of tax law. Grounds for taxpayers to apply to the ECHR. ECHR as the final judicial instance in resolving tax disputes. ECHR practice in resolving tax disputes based on applications from Ukrainian taxpayers (case «Shchokin v. Ukraine», case «Intersplav v. Ukraine», etc.). ECHR practice in resolving tax disputes based on applications from foreign taxpayers (case «Bulves» AD v. Bulgaria», case «Business Support Centre v. Bulgaria», etc.). The role of ECHR practice in resolving tax disputes by Ukrainian administrative courts. Judicial doctrines of national courts on the application of ECHR practice in resolving tax disputes.

#### 4. The scope and structure of the academic discipline

##### 4.1. For full-time students

№	Date (according to the schedule)	Topics of the course	Hours of study			
			Total	Including		
				Lectures	Seminars, colloquiums, etc	Independent work
		<b>Module 1. General provisions on the resolution of tax disputes</b>				
		Topic 1. Concept of a tax dispute	14	2	2	12
		Topic 2. System of sources of tax law and their specific application in the resolution of tax disputes	14	4	4	10
		Topic 3. Alternative methods of resolving tax disputes	18	2	2	10
		Topic 4. International approaches to the resolution of tax disputes		2	2	10
		<i>Total</i>	62	10	10	42
		<b>Module 2. Types of procedures for resolving tax disputes: administrative procedures and judicial proceedings</b>				
		Topic 5. Administrative procedures for resolving tax disputes	14	2	4	10
		Topic 6. Judicial proceedings for resolving tax disputes initiated	16	2	2	10

		by taxpayers.				
		Topic 7. Judicial proceedings for resolving tax disputes initiated by tax authorities.	16	2	2	10
		Topic 8. European Court of Human Rights (ECtHR) and its practice in resolving tax disputes.	14	2	2	10
		<i>Total</i>	58	8	10	40
		<b>Total hours / ECTS credits</b>	<b>120/4,0</b>	<b>18</b>	<b>20</b>	<b>82</b>

*4.2. For students of the correspondence form of education*

№ п/п	Date (according to the schedule)	Topics of the course	Hours of study			
			Total	Including		
				Lectures	Seminars, colloquiums, etc	Independent work
		<b>Module 1. General provisions on the resolution of tax disputes</b>				
		Topic 1. Concept of a tax dispute	18	2	2	14
		Topic 2. System of sources of tax law and their specific application in the resolution of tax disputes	16	2	-	14
		Topic 3. Alternative methods of resolving tax disputes	14	-	-	14
		Topic 4. International approaches to the resolution of tax disputes	14	-	-	14
		<i>Total</i>	62	4	2	56
		<b>Module 2. Types of procedures for resolving tax</b>				

		<b>disputes: administrative procedures and judicial proceedings</b>				
		Topic 5. Administrative procedures for resolving tax disputes	18	2	2	14
		Topic 6. Judicial proceedings for resolving tax disputes initiated by taxpayers.	14	-	-	14
		Topic 7. Judicial proceedings for resolving tax disputes initiated by tax authorities.	14	-	-	14
		Topic 8. European Court of Human Rights (ECtHR) and its practice in resolving tax disputes.	12	-	-	12
		<i>Total</i>	58	2	2	54
		<b>Total hours / ECTS credits</b>	<b>120/4,0</b>	<b>6</b>	<b>4</b>	<b>110</b>

### ***5. Forms of pedagogical control and tools for evaluating learning outcomes***

The assessment of learning outcomes in the academic discipline «Tax Disputes» involves conducting current and final assessments, and is based on a cumulative grading system.

Current assessment of knowledge:

- Checking the quality of students' mastery of the academic discipline's programme material during seminars, using such means as oral, written, or express questioning, solving practical tasks or problems, participating in case development, and defending essays or reports on the topics chosen by the student. Current

assessment aims to assess the student's level of mastering the target material. During seminars, students are assessed on a four-point scale (0, 3, 4, 5).

- Checking the quality of students' mastery of the academic discipline's programme material conducted at the end of modules in the form of colloquiums.

Throughout the semester, 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.

***Distribution of points among forms of educational process and types of control measures***

Current assessment					Final assessment (credit)
Module № 1		Module № 2		Independent work	
Seminars	Test/written assignment/ colloquium	Seminars	Test/written assignment/ colloquium		
max 25	max 15	max 25	max 15	max 20	max 100

***6. Criteria for evaluating learning outcomes***

Type of assessment	Points	Criteria (for each point)
Current assessment during a seminar	Max 5	Excellent mastery of the material with possible minor shortcomings.
	4	Good mastery of the material but with some errors.

	3	Satisfactory level of understanding the material with a significant number of errors.
	Min 0	Unsatisfactory level of understanding the material.
Test/written assignment/colloquium	Max 15	High-quality processing of the material with a possible small number of insignificant errors.
	5	Satisfactory level of understanding the material with a significant number of errors.
	Min 0	Unsatisfactory level of understanding the material.
Assessment of independent work	Max 20	Deep knowledge of the issues related to the research topic. Proficiency in the material, ability to think independently and creatively, find, generalize, and analyse information, make independent theoretical and practical conclusions.
	5	The main questions are superficially addressed, and the conclusions are not independent.
	Min 0	The main points of the topic are superficially covered with a large number of errors, lack of conclusions, and weak mastery of the material.
Credit	Max 100	Excellent command of the material of the discipline.
	Min 60	Sufficient mastery of the material of the discipline.

***7. Pedagogical assessment for students of higher education of the full-time / correspondence form of education***

**Scale of final pedagogical assessment**

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

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

## ***8. 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](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](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](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](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](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](https://dspace.nlu.edu.ua/bitstream/123456789/14605/1/Kucheryvenko_17-20.pdf).

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Standardized electronic educational and methodological complex of the  
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