

TUTORIAL QUESTIONS

RULES:

The tutorial questions count **50%** towards the 100% course marks/points. BEFORE each lecture on an international tax topic, there will be a series of questions you must answer and submit within the timeline specified – USUALLY THE DAY BEFORE THE PROPOSED LECTURE. You must have a copy of the answers available during the lecture, to mark your answers with pen (AND ALLOCATE MARKS), and then scan (with your smartphone) and send immediately after the lecture. All copies before and after the lecture to:

lesia@iitf.net,
drerasmusiitf@gmail.com

LECTURE 1: INTRODUCTION AND OVERVIEW

LOOK at the Brian Arnold, *International Tax Primer*, 3ed Kluwer (2016) (**Primer**), **and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet**

Testing if you have read the materials and listened to the lectures.

1. Give an example of a bluebook citation, by citing the following – your Primer Text Book, Roy Rohatgi's Vol 1, and the Tax planning International article on "taxpayer's going rogue", and summarize the article? 3 points
(see additional reading materials)
2. Name the 6 points you need to learn from "Reading cases"? 3 points
(see additional reading materials)
3. Give a 5 line summary of what "International Tax" means, including the various dimensions? Also explain what *jus cogens* is? 5 points
(Brian Arnold, ***International Tax Primer***, 3ed Kluwer (2016) (**Primer**) Chapter 1)
4. Give a diagrammatic representation of what you think is a typical international transaction between 3 different countries, and list at the appropriate places what you think the international tax issues may be? 5 points
(Primer Chapter 1)

You are new to this, so don't panic. Do your best. You score points for making an effort, and NOT whether you are right or wrong. You are still learning the principles, but I want you to start thinking about international tax in practical terms. Highlight some of the IOFC planning checklist items that may apply (see additional reading materials).

LECTURE 2: PRINCIPLES OF INTERNATIONAL TAX LAW

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

5. What are the sources of public international law? 3 points
(Primer – look at index/glossary of terms; Page 13, **Roy Rohatgi, Basic International Taxation: Volume 1: Principles, 2ed TAXMANN (2007) (RR)**)
6. What does the term fiscal jurisdiction mean? 1 point
(Primer – look at index/glossary of terms; Page 14 RR Vol 1)
7. What are the connecting factors, links or nexus in International tax, also stated as rules? 2 points
(Primer – look at index/glossary of terms; Page 14 RR Vol 1)
8. There are 2 categories of double taxation. What are they? 2 points
(Primer – look at index/glossary of terms; Page 14 RR Vol 1)
9. What are the 3 key components of any taxable transaction? 3 points
(Primer – look at index/glossary of terms; Page 16 RR Vol 1)
10. Give an example of 9. above? 1 point
11. What is a treaty? 1 point
(Primer – look at index/glossary of terms; Page 17 RR Vol 1)
12. What are the 2 types of constitutional principles, or approaches of countries in making treaty obligations have the force of domestic law? 2 points
(Page 17 RR Vol 1)
13. Give an example of each country Group mentioned in 12.? 2 points

(Page 17 – 21 RR
Vol 1)

14. Is international law enforceable? In your answer give your understanding of WTO obligations, BIT obligations and State Responsibility obligations?

5 points
(See additional
reading materials;
Page 21 RR Vol 1)

LECTURE 3: PRINCIPLES OF INTERNATIONAL TAX LAW

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

- | | | |
|-----|---|---|
| 15. | What is the Vienna Convention on the law of treaties (VCLT)? | 1 point (Primer – look at index/glossary of terms; Page 27 onwards RR Vol 1) |
| 16. | Which States are bound – search the internet and attach a pdf to your answer? | 3 points |
| 17. | Quote Article 26 VCLT ? | 1 point |
| 18. | Quote Article 27 VCLT ? | 1 point |
| 19. | Quote Article 28 VCLT ? | 1 point |
| 20. | Summarise Article 31 VCLT ? | 2 points |

LECTURE 4: PRINCIPLES OF INTERNATIONAL TAX LAW

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

21. What is the primary purpose of a Double Tax Treaty? 2 points
(Page 68 RR Vol 1)
22. Does a Double Tax Treaty give a State the right to tax ie. Increase taxes over and above what their domestic law allows? Think and read carefully. 5 points
23. Summarise Articles 9, 25 and 26 of the OECD Income and Capital Model Convention? 6 points
24. Does domestic tax law override a double tax treaty? 2 points
(Page 34 RR Vol 1)
25. List the basic “anti-treaty abuse” provisions? 3 points
(Page 36 RR Vol 1)
26. Give the names of 2 Model Tax Conventions? 2 points
27. Are the commentaries to the Model Tax Conventions binding? 1 point
(Page 43 RR Vol 1)
28. Give a term that describes the legal nature of the commentaries? 1 point
(Page 44 RR Vol 1)
29. What is the general attitude of courts to the model tax conventions and commentaries, and interpretations? 1 point
(Page 46 RR Vol 1)
30. State the Interpretative Rule under OECD MC Article 3(2)? 1 point
(Page 48 RR Vol 1)
31. How do Model tax treaties work? Give a summary. 6 points
(Page 68 RR Vol 1)
32. Name the relief measures against Juridical Double Taxation? 2 points
(Page 70 RR Vol 1)
33. What does the OECD MLI stand for? 1 point
(Additional reading materials and the internet)
34. What does the MLI do and how many countries have signed the MLI? Search on the internet and attach a pdf list. 2 points

LECTURE 5: PRINCIPLES OF INTERNATIONAL TAX LAW

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

35. Read the *Occidental Exploration v Ecuador* case in your cases for case studies, applying the 6 points in 2 above in a 2 page document using the bluebook citation method? 5 points (see additional reading)
36. Having listened to the MLI presentation - <http://www.africataxjournal.com/?p=803> 10 points (see link)
4.2 The Multilateral Instrument from BEPS Action 15 – listen to this presentation - **REQUIRED a 2 page point-by-point summary of this presentation.**
37. What does BIT and WTO stand for? 2 points (internet and see additional reading)
38. Go to the WTO website and find disputed settlement between the US and China, in favour of the US on VAT issues, and quote the DS member/number? 1 point
39. Give a 5 line summary of the WTO US/China VAT dispute settlement – what was the dispute about? 2 points
40. Give a 5 line summary of what “State Responsibility in Tax Matters” is? 2 points (internet and see additional reading)
41. Read “*Paying lip service to the principles of interpretation*”, 2018 PWC article. Summarise using the principles from “**Reading cases**” under Lecture 1, additional reading/references. 5 points

LECTURE 6: JURISDICTION TO TAX RESIDENCE

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

42. A nexus exists in international tax is 2 “jurisdictions”. Name them? 2 points
(Primer 2.1)
43. Define residence of individuals? 2 points
(Primer 2.2.1)
44. Define residence of legal entities? 2 points
(Primer 2.2.2)
45. In your Primer 2.2.2 an example is given of USCo wanting to avoid US CFC rules. Set the facts out in diagrammatic form. Use Power Point or simply draw by hand and attach to your answer sheet. Demonstrate you understand the steps. 3 Points
(Primer 2.2.2)
46. What does POEM mean? 1 point
47. What are treaty tie-breaker rules? 1 point

LECTURE 7: JURISDICTION TO TAX – SOURCE

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

48. Give examples of OECD and UN Model Treaty implicit source rules and rules that function effectively like source rules? 5 points (Primer 2.3.1)
49. Explain briefly the UN Model Treaty and OECD Model Treaty Provisions in respect of employment and personal services income? 5 points (Primer 2.3.2)
50. Explain briefly the UN Model Treaty and OECD Model Treaty provisions in respect of Business income? 5 points (Primer 2.3.3)
51. Briefly explain what a PE is? 1 point
52. Explain briefly the UN Model Treaty and the OECD Model Treaty in respect of passive income – 5 points (Primer 2.3.4)
- Interests
 - Dividends
 - Royalties
 - Rent
53. You are a South African Citizen. You own immovable property in South Africa. You emigrate to Australia. You let out the property in South Africa and earn rental income. You consult as a professional in Australia. But you also consult in South Africa for 90 days a year. Where do you pay tax? Follow the general principles you have learnt above. Provide reasons for your conclusions, but also look at the DTA between South Africa and Australia – Articles on Residence, Income from Real Property, Business Profits read with Permanent Establishment, Independent Personal Services. 5 points

LECTURE 8: DOUBLE TAX/FOREIGN TAX RELIEF

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

54. What are the 3 types of double taxation? 1 point
(Primer 4.1)
55. What are the 3 methods providing relief from double taxation? 1 point
(Primer 4.1)
56. What methods are authorised by Article 23 of the OECD and UN Model Treaties? 1 point
(Primer 4.3.5)
57. Explain the allocation of expenses? 3 points
(Primer 4.4)
58. What is tax sparing? 2 points
(Primer 4.5)
59. Name 1 country with tax sparing clauses with a brief explanation? 2 points

(research the internet or IBFD)

LECTURE 9: TAXATION OF RESIDENTS

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

60. How does taxation of worldwide income work? 2 points
(Primer Chapter 3)
61. Where does double taxation arise? 2 points
(Primer 3.2.3)
62. How do treaties assist residents with double tax exposure? 2 points
(Primer 3.2.4.1)
63. How are losses treated under worldwide tax systems? 2 points
(Primer 3.2.4.3)
64. What are audits “without borders”? 2 points
(Primer 3.2.5)
(Research on the internet “Tax Inspectors without borders.”)
65. **Listen to the recorded lecture by Professor Marshall Langer** on MLATs and TIEA’s.
Write a one page summary of the lecture material. 10 points
(Additional reading folder)

LECTURE 10: TAXATION OF NON-RESIDENTS

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

66. Explain the non-discrimination of principle. 2 points
(Primer 5.2)
67. Explain the threshold requirements to tax domestic source income derived by non-residents. 2 points
68. Summarise the key principles emerging from your Primer 5.7 "Computation of the domestic source of income of non-residents". 5 points
(Primer 5.7)
69. Summarise the "taxation of various types of income of non-residents". 5 points
(Primer 5.8)
70. Refer back to your notes on Professor Marshall Langer's pre-recorded lecture (Lecture 9) and compare those notes with Primer 5.9 "Administrative Aspects of Taxing Non-Residents." 5 points

LECTURE 11: TRANSFER PRICING

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

71. In 5 lines describe what is “transfer pricing” citing an example? 1 point
(Primer Chapter 6)
72. What is the arm’s length method? 1 point
(Primer Chapter 6)
73. What is an APA? 1 point
(Primer Chapter 6)
74. Find any double tax agreement, and explain the “Associated Enterprises” Article. Use the bluebook citation method. Be neat and clear. 5 points
(Internet research)
75. What is the significance of the “Associated Persons” Article to TP? 2 points
5 lines. (Primer Chapter 6)
76. What are the OECD TPG? 2 points
(Primer Chapter 6)
77. What are the UN TPG? 2 points
(Primer Chapter 6)
78. What is the difference between the 2? This should be a two (2) 10 points
page summary showing the similarities and differences. What you (Primer Chapter 6 and
need to do is compare the contents tables to assist in your task. A refer to the
general understanding and knowledge is required of you. guidelines)
79. Which Model Convention Articles drives (and effectively caused 2 points
the creation) of TP? The answer will become apparent from doing (Primer Chapter 6)
the previous comparison question between the OECD and UN TPG.
80. Name a country that relies on the OECD and UN TPGs? Support 2 points
your answer with a reference to check. Use the bluebook citation
method.

LECTURE 12: TRANSFER PRICING – ARM'S LENGTH PRINCIPLE / STANDARD

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

81. In order to apply TP as an anti-avoidance mechanism, do you think countries must introduce their own TP legislation? Explain your answer and give reasons. Think carefully about your answer. Search the TPGs and the PWC Handbook or the internet. 2 points (Primer Chapter 6)
82. If countries don't have specific TP legislation, do you think their general anti-avoidance legislation could be relied upon? Explain your answer. Give reasons. Search the TPGs and the PWC handbook, or the internet. 2 points (Primer Chapter 6) (Search the TPGs & the PWC Handbook, or the internet)
83. In applying the arm's length standard/principle, the Revenue Authority is seeking to adjust a price of a taxpayer to charge more tax. Do you think the Revenue Authority are permitted to recategorize the nature of the actual transaction? Or just adjust the price? 5 points (Primer Chapter 6) (Search the TPGs & the PWC Handbook, or the internet)
84. What is the comparability analysis? 5 points (Primer Chapter 6)
85. What is a CUP? 2 points (Primer Chapter 6)
86. What is the resale price method? 2 points (Primer Chapter 6)
87. What is the cost plus method? 2 points (Primer Chapter 6)
88. What is the profit-split method? 2 points (Primer Chapter 6)
89. What is the TNMM? 2 points (Primer Chapter 6)

LECTURE 13: TRANSFER PRICING

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

90. What is the sharing of Corporate Resources? 2 points
(Primer Chapter 6.5)
91. What are the intra-group stories? 2 points
(Primer Chapter 6.5)
(OECD & UN TPGs)
92. How does TP affect the use/transfer of intangible property? 2 points
(Primer Chapter 6.5)
93. Explain Cost Contribution Arrangements? 2 points
(Primer Chapter 6.6)
94. Explain disregarded transactions? Remember your earlier question under lecture 12 – do you think Revenue Authorities can re-categorize transactions? 2 points
(Primer Chapter 6.7)
95. Summarise the TP documentation requirements? 2 points
(Primer Chapter 6.8)
96. What are “associated enterprises” or business or persons, as referred to in Model Tax Conventions, as applied in TP? Remember your question in Lecture 11 on “Associated Enterprises”. 2 points
(Primer Chapter 6.9)

LECTURE 14: OTHER ANTI-AVOIDANCE MEASURES

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

97. You are required to listen to Lecture 14 on Anti-Avoidance, and in 10 points
a Word document, 1½ line spacing, Calibri font, size 11 font, (Primer Chapter 7)
bluebook citation method, you must provide a concise and logical
summary of the lecture (not the Primer), of no more than five (5)
pages. This must be submitted at least ONE day before the next
lecture.

LECTURE 15: OTHER ANTI-AVOIDANCE MEASURES

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

98. You are required to listen to Lecture 15 on CFCs, and in a Word document, 1½ line spacing, Calibri font, size 11 font, bluebook citation method, you must provide a concise and logical summary of the lecture (not the Primer), of no more than five (5) pages. This must be submitted at least ONE day before the next lecture. 10 points (Primer Chapter 7)

LECTURE 16: OTHER ANTI-AVOIDANCE MEASURES - THERE IS NO LECTURE BUT THERE IS A PROBLEM BELOW THAT MUST BE ANSWERED with additional reading (a potential exam question)

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

99. Take a look at the following CFC problem below and read the supporting documentation, and determine if there is a CFC problem using the "guarantee member" structure: 10 points
(Primer Chapter 7)

[CFC eg. Problem](#) with "guarantee member"

[HYBRID COMPANIES](#) - read about this interesting type of company that 'acts' like a trust, but is not a trust, and could be useful to side-step certain anti-avoidance provisions (eg. CFC rules) aimed at passive income receipts by trusts. Look at this and think about what anti-avoidance rules may apply.

[cfc eg. 9D.Net income of controlled foreign companies.—\(1\) For the purposes of this section—](#) with relevant highlighted sections relevant to the "problem with a guarantee member" referred to above. Read this with an explanation of such a "guarantee member" in [HYBRID COMPANIES](#) immediately above.

QUESTION TO ANSWER: Would the guarantee member have "participation rights" as envisaged in section 9D? **one-page only.**

LECTURE 17: TAX TREATIES

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

100. You are required to listen to Lecture 17, and in a Word document, 10 points
1½ line spacing, Calibri font, size 11 font, bluebook citation (Primer Chapter 8)
method, you must provide a concise and logical summary of the
lecture (not the Primer), of no more than five (5) pages. This must
be submitted at least ONE day before the next lecture.

LECTURE 18: TAX TREATIES

101. You are required to listen to Lecture 18, and in a Word document, 10 points
1½ line spacing, Calibri font, size 11 font, bluebook citation (Primer Chapter 8)
method, you must provide a concise and logical summary of the
lecture (not the Primer), of no more than five (5) pages. This must
be submitted at least ONE day before the next lecture.

LECTURE 19: TAX TREATIES

102. You are required to listen to Lecture 19, and in a Word document, 10 points
1½ line spacing, Calibri font, size 11 font, bluebook citation (Primer Chapter 8)
method, you must provide a concise and logical summary of the
lecture (not the Primer), of no more than five (5) pages. This must
be submitted at least ONE day before the next lecture.

LECTURE 20: TAX TREATIES

103. You are required to listen to Lecture 20, and in a Word document, 10 points
1½ line spacing, Calibri font, size 11 font, bluebook citation (Primer Chapter 8)
method, you must provide a concise and logical summary of the
lecture (not the Primer), of no more than five (5) pages. This must
be submitted at least ONE day before the next lecture.

LECTURE 21: TAX TREATIES

104. You are required to listen to Lecture 16, and in a Word document, 10 points
1½ line spacing, Calibri font, size 11 font, bluebook citation (Primer Chapter 8)

method, you must provide a concise and logical summary of the lecture (not the Primer), of no more than five (5) pages. This must be submitted at least ONE day before the next lecture.

LECTURE 22 & 23: EMERGING ISSUES

LOOK at the Primer, and also look at the additional reading references before answering these questions, as indicated in the Curriculum spreadsheet

- | | | |
|------|--|--|
| 105. | What is BEPS? | 5 points (Primer Chapter 9) |
| 106. | What are the hybrid arrangements? | 5 points (Primer Chapter 9) |
| 107. | How does BEPS counter Hybrid transactions? | 5 points (Primer Chapter 9) |
| 108. | Summarise the issues around management, technical and consulting services? | 5 points (Primer Chapter 9) |
| 109. | What is the digital economy? | 1 point (Primer Chapter 9) |
| 110. | What are the tax challenges in the digital economy? Give an example. | 2 points (Primer Chapter 9) |
| 111. | What is cryptocurrency? | 2 points (Research on the internet) |
| 112. | How are the cryptocurrencies typically taxed? | 2 points (Research on the internet) |