

DAVČNO PROCESNO PRAVO

UČNI NAČRT PREDMETA/COURSE SYLLABUS

Predmet:	DAVČNO PROCESNO PRAVO
Course title:	TAX PROCEDURAL LAW
Članica nosilka/UL	UL FU
Member:	

Študijski programi in stopnja	Študijska smer	Letnik	Semestri	Izbirnost
Uprava - Upravljanje javnega sektorja, druga stopnja, magistrski	Javna uprava (smer)	2. letnik	1. semester, 2. semester	izbirni

Univerzitetna koda predmeta/University course code:	0061362
Koda učne enote na članici/UL Member course code:	2023

Predavanja /Lectures	Seminar /Seminar	Vaje /Tutorials	Klinične vaje /Clinical tutorials	Druge oblike študija /Other forms of study	Samostojno delo /Individual student work	ECTS
21	11			88	60	6

Nosilec predmeta/Lecturer: Polonca Kovač

Vrsta predmeta/Course type: IZBIRNI/ELECTIVE

Jeziki/Languages:

Predavanja/Lectures:	Angleščina, Slovenščina
Vaje/Tutorial:	

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti: Ni pogojev.

Prerequisites: No prerequisites.

Vsebina:

1. Pomen, vrste in viri javnih dajatev in inovativne davčne (procesne) regulacije v javnem upravljanju.
2. Viri davčnega procesnega prava, subsidiarna raba. Evropeizacija na davčnem in carinskem področju: predpisi in sodna praksa.
3. Opredelitev davkov kot javnopravnih obveznosti in njihovo učinkovito pobiranje v javnem interesu, skladnost in davčna vrzel, odprava administrativnih ovir, alternativno reševanje davčnih sporov.
4. Davčni postopki kot primer posebnega upravnega postopka in ustavno enako varstvo pravic s primeri iz sodne prakse EU in RS.
5. Vrste in pravna narava aktov v davčnem postopku. Zavezujoče informacije, APA sporazumi, statusi, informativni izračun dohodnine, EUL itd.

Content (Syllabus outline):

1. Significance, types and sources of public revenues and innovative tax (procedural) regulation within public governance.
2. Sources of tax procedure law, subsidiary use. Europeanization in tax and customs field: regulation and case law.
3. Definition of taxes and their efficient collection within public law, based on public interest, tax compliance and tax gap, red tape removal, alternative dispute resolution in tax matters.
4. Tax procedures as special administrative procedures and constitutional equal protection of rights with case-law in the EU and Slovenia.
5. Acts issued in tax procedures and their legal nature. Advance rulings, advance price agreements, special statutes, prefilled tax returns, single administrative document, etc.

<ol style="list-style-type: none"> 6. Temeljna načela davčnih postopkov (zakonitost, materialna resnica, sorazmernost etc.) 7. Davčna transparentnost, mednarodno sodelovanje v davčnih zadevah v EU, izmenjava informacij. 8. Vrste davčne obveznosti in načini njihove izpolnitve (obračun, odtegljaj, napoved in odmerna odločba, samoprijava). 9. Udeleženci v davčnih postopkih in njihov procesni položaj. Davčni organ, zavezanci za davek, davčni svetovalci, stranski udeleženci v evropski teoriji in sodni praksi. 10. Faze in posebne značilnosti davčnih in carinskih postopkov (od začetka postopka, vročanja, e-poslovanja do pravnih sredstev) ter dohodninski postopek (informativni izračun, ugovor, roki). 11. Carinsko procesno pravo EU s primeri posebnih postopkov. 12. Pomen in tek davčnega inšpiciranja ter druge oblike davčnega nadzora; načela, viri in sredstva davčne izterjave. 	<ol style="list-style-type: none"> 6. Fundamental principles of tax procedures (lawfulness, material truth, proportionality, etc.). 7. Tax transparency, international cooperation in tax matters in the EU; information exchange. 8. Forms of tax obligations and ways of their fulfilment (declaration, withholding, tax return and assessment, voluntary disclosure). 9. Participants in tax proceedings and their procedural position. Tax authority, taxpayers, tax consultants, affected persons in European theory and case-law. 10. Phases and special characteristics of tax and customs proceedings (initiation, notification, e-communication, remedies). Personal income tax proceeding (return, remedies, deadlines). 11. The EU customs procedure law with selected special proceedings. 12. Significance and conduct of of tax inspection and other forms of tax audit; principles, sources and means of tax enforcement.
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Temeljna literatura in viri/Readings:

<ol style="list-style-type: none"> 1. Kovač, P. (ur.) (2021). Davčno pravo med teorijo in prakso s komentarjem 70.-90. člena ZDavP-2. Ljubljana: Uradni list RS. 2. Pistone, P. (2020). Tax Procedures. Amsterdam: IBFD. 3. Jerovšek, T., Kovač, P. (2008). Posebni upravni postopki. Ljubljana: Fakulteta za upravo, izbranih 80 str. 4. Podlipnik, J., v Avbelj, M. (2019). Komentar Ustave RS (člen 147). NG: NU, EPF., izbranih 20 str. 5. Kovač, P. (2020): Novejša sodna praksa o statusih in položajih strank v davčnih postopkih. PiD 46, 2, 276-293. 6. Kovač, P. (2018). The potentials and limitations of tax dispute prevention and alternative resolution mechanisms. Zbornik PF Sveučilišta u Rijeci, vol. 39, br. 4, str. 1505-1531. https://hrcak.srce.hr/file/318665 7. Kovač, P., Jovanović, T. (2017): Ensuring tax stability through advance rulings in (Slovene) practice. V: Radić, Ž et al., The legal challenges of modern world,, Book of proceedings. 337-347, http://www.esd-conference.com/upload/book_of_proceedings/esd_Book_of_Proceedings_Split_2017_doc_Online.pdf. 8. Langenmayr, D. (2017): Voluntary Disclosure of Evaded Taxes, CESifo Working Paper, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2607956 9. Kovač, P. (2014): Tax Procedure Law within the Reduction of Administrative Burdens. IPAR, 8(1-2). http://uprava.fu.uni-lj.si/index.php/CEPAR/article/view/265 10. Nykel, W., Set, M., et al. (2009). Protection of taxpayer's rights: European, international and domestic tax law perspective. Warszawa: Oficyna a Wolters Kluwer, izbranih 50 str. 11. Babšek, M., Kovač, P. (2021). Informativni izračun kot pravni presadek: od dohodnine do socialnih pravic. vol. 47, št. 1, str. 19-39. 12. Letna poročila FURS, http://www.fu.gov.si/o_financni_upravi/letna_porocila/ in gradiva z gostujočih predavanj v spletni učilnici.

Cilji in kompetence:

<p>Cilji</p> <ul style="list-style-type: none"> • kritično razumevanje vloge davkov in davčnih postopkov v javnem upravljanju • razumevanje in vrednotenje ter predlaganje izboljšav davčnoprocenega prava z uravnoteženjem učinkovitosti in demokratičnosti v EU in RS, vključno z enakim varstvom pravic • usposobljenost za razlago pomena in vsebin temeljnih davčnoprocenih načel ter njihove 	<p>Objectives</p> <ul style="list-style-type: none"> • critical understanding of the role of taxes and tax procedures in public governance • understanding and assessment and innovative improvement of tax procedural law by balancing efficiency and democracy in the EU and Slovenia, including equal protection of rights • ability to interpret meaning and contents of fundamental tax procedural principles and their
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<p>uporabe v konkretnih primerih z analizo izbranih davčnih institutov</p> <ul style="list-style-type: none"> • razumevanje in evalvacija posebnosti davčnih postopkov • razvijanje mreženja, skupinskega dela, nastopanja in javne argumentacije, etike ter davčne kulture <p>Kompetence</p> <ul style="list-style-type: none"> • sposobnost inovativnega, prek disciplinarnega in kritičnega vrednotenja davčne regulacije in davčnoprocenske statistike • zmožnost avtonomnega reševanja davčnoprocenskih problemov skozi ustavna in davčna načela • sposobnost refleksije in kritične analize ter pravnoetične presoje • zmožnost konstruktivno mrežiti in delovati v skupini ter javno zagovarjati stališče • obvladanje strokovne terminologije v slovenskem in angleškem jeziku 	<p>application in concrete cases by analysis of selected tax institutes</p> <ul style="list-style-type: none"> • understanding and evaluation of tax procedures specifics • development of networking, team work, public communication and argumentation, ethics and tax culture <p>Competences</p> <ul style="list-style-type: none"> • ability to innovatively, cross disciplinary and critically assess tax regulation and tax statistics • ability to autonomously resolve tax procedural problems through constitutional and tax principles • ability to reflect and preform legal and ethical evaluation • ability to constructively network and cooperate in a team and publicly argue • ability to use professional terminology in Slovenian and English
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Predvideni študijski rezultati:

<p>Študent zna:</p> <ul style="list-style-type: none"> • pojasniti in razvijati inovativno vlogo davčnega procesnega prava v dobrem javnem upravljanju • povzeti in razčleniti temeljna davčno-procesna načela v EU in Sloveniji • analizirati in vrednotiti skladnost posebnih davčnih pravil glede na ustavno enako varstvo pravic • kategorizirati različne davčne postopke in pravila za določeno razmerje • javno argumentirati rešitev izbranega davčno-procesnega problema
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Intended learning outcomes:

<p>Student knows how to:</p> <ul style="list-style-type: none"> • explain and develop the innovative role of tax procedural law within good public governance • summarize and analyze fundamental tax procedural principles in the EU and Slovenia • analyze and assess compliance of special tax rules regarding constitutional equal protection of rights • categorize various tax procedures and rules for certain relation • publicly argue solution of a selected tax procedural problem
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Metode poučevanja in učenja:

<ol style="list-style-type: none"> 1. priprava na predavanja 2. predavanje 3. priprava na seminar 4. seminar 5. skupinska seminarska naloga (analiza literature in primerov iz prakse, statistična in primerjalna analiza, raziskava s terenskim delom, pro et contra debate) 6. problemsko učenje 7. konzultacije 8. gostujoče predavanje iz prakse
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Learning and teaching methods:

<ol style="list-style-type: none"> 1. preparations for lectures 2. lecture 3. preparations for seminars 4. seminars 5. group seminar paper (analysis of literature and cases, statistics and comparative analysis, research field work, pro et contra debate) 6. problem based learning 7. study consultation 8. guest lecture from practice
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Načini ocenjevanja:

Delež/Weight

Assessment:

1. pisni in/ali ustni izpit	60,00 %	1. written and/or oral examination
2. sprotne naloge in aktivno sodelovanje na predavanjih in seminarjih	10,00 %	2. interim assignments and active collaboration within lectures and seminars
3. skupinska analiza argumentacija študije primera z debato skozi simulacijo ustavnosodnega spora	30,00 %	3. group analysis argumentation of case study with a debate through a simulation of a constitutional dispute

Reference nosilca/Lecturer's references:

1. Kovač, P. (ur.) (2021). Davčno pravo med teorijo in prakso s komentarjem 70.-90. člena ZDavP-2. Ljubljana: Uradni list RS.
2. Kovač, P., v Jerovšek, T. et al. (2008). Zakon o davčnem postopku s komentarjem. Ljubljana: Davčno-izobraževalni inštitut; Maribor: Davčni inštitut.
3. Kovač, P. (2020): Novejša sodna praksa o statusih in položajih strank v davčnih postopkih. PiD 46, 2, 276-29
4. Babšek, M., Kovač, P. (2021). Informativni izračun kot pravni presadek: od dohodnine do socialnih pravic. PiD 47, 1, 19-39
5. Ravšelj, D., Kovač, P., Aristovnik, A. (2019). Tax-related burden on SMEs in the European Union: the case of Slovenia. Mediterranean journal of social sciences, vol. 10, no. 2, str. 69-79.
6. Kovač, P. (2018). The potentials and limitations of tax dispute prevention and alternative resolution mechanisms. Zbornik Pravnog fakulteta Sveučilišta u Rijeci, vol. 39, br. 4, str. 1505-1531.
7. Kovač, P., Kerševan, E. (ur.) (2020). ZUP s komentarjem. Ljubljana: Uradni list RS in PF UL.