

DIREITO E ECONOMIA DA TRIBUTAÇÃO (2018)

EMENTA DA DISCIPLINA

Objetivos da disciplina

A disciplina Direito e Economia da Tributação pretende debater – sob uma perspectiva de *law and economics* – problemas, casos e práticas jurídicas tributárias relevante e atuais, tanto com escopo doméstico quanto internacional.

Para tanto, serão analisadas questões concretas da prática tributária, com uma abordagem crítica e contextualizada que considere os impactos econômicos e comportamentais destas questões sobre os negócios em particular e a sociedade em geral.

Também serão examinados referenciais comparativos do direito estrangeiro, considerando que as experiências de outros sistemas jurídicos frequentemente indicam soluções e abordagens com relevância aplicativa para as questões práticas enfrentadas no Brasil.

Metodologia de ensino e dinâmica das aulas

As aulas consistirão em discussões e debates sobre temas atuais de direito e economia da tributação. Durante as aulas, o professor também poderá apresentar referenciais teóricos, casos, experiências e dados para dar subsídios às discussões.

O professor disponibilizará material de leitura para orientar a preparação prévia dos alunos, os quais serão estimulados a ampliar a pesquisa para reunir mais informações sobre o tema da aula.

As discussões e os debates serão organizados pelo professor com base em breves apontamentos escritos, a serem entregues pelos alunos – em grupos com 3 ou 4 integrantes – semanalmente (a partir da aula 2), até as 14:00h da sexta-feira que precede a aula. Cada apontamento escrito deverá propor de forma sucinta e propositiva, em no máximo 1 lauda, uma questão relevante fundamentada nos textos de bibliografia obrigatória da aula.

Adicionalmente, a cada aula (a partir da aula 2) será previamente selecionado um grupo de alunos para participação como “protagonistas”, conforme calendário a ser conjuntamente definido entre o professor e a turma. Cada aluno participará como “protagonista” em uma aula apenas.

O professor coordenará a discussão em sala de aula com o objetivo de compartilhamento de experiências e apresentação de respostas às questões previamente formuladas pelos alunos ou posteriormente identificadas.

Ao final de cada aula, o professor fará a síntese da discussão, destacando os pontos principais a serem assimilados pelos alunos e sugerindo pontos para aprofundamento de pesquisa.

1	07/05/18	Apresentação do Curso. <i>Tax Law and Economics</i>: Propostas e Limites. Economia Comportamental e Tributação.
Leituras Obrigatórias		<p>MCCAFFERY, Edward J. Behavioral Economics and the Law: Tax. <i>In: Oxford Handbook of Behavioral Law & Economics</i>. 2013, 30p. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2326772</p> <p>RASKOLNIKOV, Alex. Accepting the Limits of Tax Law and Economics. <i>In: Cornell Law Review</i>, vol. 98, 2013, p. 523-590 (especialmente p. 523-530; e p. 566-590). Disponível em: http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3265&context=clr</p>
Leituras de apoio		<p>FELDSTEIN, Martin. Effects of Taxes on Economic Behavior. <i>In: National tax journal</i> 61(1), 2008, 131-139. Disponível em: http://nrs.harvard.edu/urn-3:HUL.InstRepos:2943922</p> <p>FOOKEN, JONAS; e WEBER, Till Olaf. Behavioural Economics and Taxation. European Commission Working Paper 41, 2014. Disponível em: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_41.pdf</p> <p>GAMAGE, David. A Way Forward for Tax Law and Economics: A Response to Osofsky's Who's Naughty and Who's Nice? Frictions, Screening, and Tax Law Design. 2014, 4p. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2438141</p> <p>MANKIW, Gregory N; WEINZEIERL, Matthew Charles; YAGAN, Danny Ferris. Optimal Taxation in Theory and Practice. <i>In: Journal of Economic Perspectives</i> 23(4), 2009, p. 147-174. Disponível em: http://nrs.harvard.edu/urn-3:HUL.InstRepos:4263739</p>

2	14/05/18	Previsibilidade Tributária (<i>Tax Certainty</i>) e Competição Fiscal Internacional.
Leituras Obrigatórias		<p>AVI-YONAH, Reuven; MAZZONI, Gianluca. Tit for Tat: How Will Other Countries React to the Tax Cuts and Jobs Act. U of Michigan Law & Econ Research Paper No. 17-022. 3p. Dezembro de 2017. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3089052</p> <p>GIBSON, Stuart. Tax Certainty in a Complex World. <i>In: Tax Analysts</i>. 2017. 2p. Disponível em: http://www.taxanalysts.org/content/tax-certainty-complex-world</p> <p>LIMA, Flavia. Brasil patina na guerra fiscal global e pode perder novos investimentos. <i>In: Folha de S.Paulo</i>, 28 de janeiro de 2018. Disponível em: http://www1.folha.uol.com.br/mercado/2018/01/1953894-brasil-patina-na-guerra-fiscal-global-e-pode-perder-novos-investimentos.shtml</p> <p>OCDE. Tax Certainty. IMF/OECD Report for the G20 Finance Ministers. 2017. 114p (especialmente p. 9-61). Disponível em: http://www.oecd.org/tax/g20-report-on-tax-certainty.htm</p>

	<p>TREVISAN, Claudia. Redução de impostos no exterior afeta Brasil. <i>In: O Estado de S.Paulo</i>, 28 de janeiro de 2018. Disponível em: http://economia.estadao.com.br/noticias/geral/reducao-de-impostos-no-externo-afeta-brasil,70002168039</p>
Leituras de apoio	<p>BANCO MUNDIAL e PWC. Paying Taxes 2017. Disponível em: https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2017.pdf</p> <p>CAIUMI, Antonella; HEMMELGARN, Thomas; e ZANGARI, Ernesto. Tax Uncertainty: Economic Evidence and Policy Responses. 2017. European Commission Working Paper 67. Disponível em: https://ec.europa.eu/taxation_customs/sites/taxation/files/taxation_paper_67.pdf</p> <p>HODGE, Scott A. The Economic Consequences of Tax Complexity. 2016. Disponível em: https://www.jec.senate.gov/public/cache/files/1e0be0f4-97ff-44c9-a057-a5896a86cf8f/hodge-jec-testimony-4-18-2016.pdf</p> <p>ULPH, David. Measuring Tax Complexity. School of Economics and Finance Discussion Paper No. 1417, 2014. Disponível em: https://www.st-andrews.ac.uk/~wwwecon/repecfiles/4/1417.pdf</p>

3	21/05/18	Tax Gap. Efeitos e Incentivos Econômicos e Sociais do Planejamento Tributário. Análise Econômica das Sanções Tributárias e do Tax Enforcement.
Leituras Obrigatórias	<p>ALM, James et al. Rethinking the research paradigms for analyzing tax compliance behavior. <i>In: CESifo Forum</i> 2/2012, p. 33-40. https://www.cesifo-group.de/DocDL/forum2-12-focus5.pdf</p> <p>BRITISH PSYCHOLOGICAL SOCIETY, THE. Behaviour Change: Tax & Compliance. 4p. Disponível em: https://www1.bps.org.uk/system/files/Public%20files/tax.pdf</p> <p>MURPHY, Richard. Why bother with the Tax Gap. An Introduction to Modern Taxation Theory. City Political Economy Research Centre City, University of London. Working Paper 2017/04. 2017, 9p. Disponível em: https://www.city.ac.uk/_data/assets/pdf_file/0007/348856/CITYPERC-WPS-201704.pdf</p> <p>SLEMROD, Joel. Old George Orwell Got It Backward: Some Thoughts on Behavioral Tax Economics. <i>In: Public Finance Analysis</i> vol. 66 no. 1, 2010, p. 15-29. Disponível em: http://webuser.bus.umich.edu/jslemrod/Old_George_Orwell.pdf</p> <p>SUSTEIN, Cass. Nudging Taxpayers to Do the Right Thing. <i>In: Bloomberg</i>. 2014. Disponível em: https://www.bloomberg.com/view/articles/20140415/nudgingtaxpayerstodotheightthing</p>	
Leituras de apoio	<p>ALM, James. Measuring, Explaining, and Controlling Tax Evasion: Lessons from Theory, Experiments, and Field Studies. Tulane Economics Working Paper Series – Working Paper 1213. 2012. Disponível em: http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.335.3739&rep=rep1&type=pdf</p> <p>ALM, James; e SOLED, Jay A. Whither the Tax Gap. Working Paper, 2016. Disponível em: http://www.law.nyu.edu/sites/default/files/upload_documents/James%20Alm%20and%20Jay%20Soled.pdf</p>	

	<p>COBHAM, Alex; e JANSKÝ. Global Distribution of Revenue Loss from Tax: Re-estimation and Country Results. United Nations University Working Paper 55. 2017, 28p. Disponível em: https://www.wider.unu.edu/publication/global-distribution-revenue-loss-tax-avoidance</p> <p>LOGUE, Kyle. Optimal Tax Compliance and Penalties When the Law Is Uncertain. University of Michigan Law School Discussion Paper, 2006. Disponível em: http://repository.law.umich.edu/law_econ_archive/art66</p> <p>SLEMROD, Joel B. Sexing Up Tax Administration. <i>In: Journal of Tax Administration</i> Vol.1, 2015, p. 6-22. Disponível em: http://jota.website/article/view/7</p> <p>_____. Tax Compliance and Enforcement: New Research and its Policy Implications. Ross School of Business Working Paper 1302. 2016. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2726077</p>
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4	28/05/18	Governança Tributária, Transparência e Reputação Fiscal.
Leituras Obrigatórias	<p>BARFORD, Vanessa; e HOLT, Gerry. Google, Amazon, Starbucks: The rise of 'tax shaming'. <i>In: BBC News Magazine</i>. 21 de março de 2013. Disponível em: http://www.bbc.com/news/magazine-20560359</p> <p>BLANK, Joshua D. Reconsidering Corporate Tax Privacy. <i>In: New York University Journal Of Law & Business</i>, vol. 11, n. 1, 2014, p. 31-121 (especialmente p. 48-56). Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2524617</p> <p>GRIBNAU, Hans J.L.M.; e JALLAI, Ave-Geidi. Good Tax Governance: A Matter of Moral Responsibility and Transparency. <i>In: Nordic Tax Journal</i>, vol. 1, 2017, p. 70-88. Disponível em: https://www.degruyter.com/view/j/ntaxj.2017.1.issue-1/ntaxj-2017-0005/ntaxj-2017-0005.xml</p> <p>HOULDER, Vanessa. Public opinion brings shift in business attitudes to tax planning. <i>In: Financial Times</i>, 29 de Agosto de 2016. Disponível em: https://www.ft.com/content/bca9bb20-6aca-11e6-ae5b-a7cc5dd5a28c</p> <p>RUBINSTEIN, Flavio; e VETTORI, Gustavo. Closing the Brazilian Tax Gap: Public Shaming, Transparency and Mandatory Disclosure as Means of Dealing with Tax Delinquencies, Tax Evasion and Tax Planning. <i>In: Derivatives & Financial Instruments</i>, vol. 18, n. 1, 2016, 19p.</p>	
Leituras de apoio	<p>AVI-YONAH, Reuven S. Corporate Taxation and Corporate Social Responsibility. <i>In: N. Y. U. J. L. & Bus.</i> 11, no. 1 (2014): 1-29. Disponível em: https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2406&context=articles</p> <p>DESAI, Mihir A.; DHARMAPALA, Dhammika. Taxation and Corporate Governance: An Economic Approach. Abril de 2007. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=983563</p> <p>KERR, Jon N; PRICE, Richard; ROMÁN, Francisco J. The Effect of Corporate Governance on Tax Avoidance: Evidence from Governance Reform. Abril de 2016. Disponível em: http://www.ntanet.org/wp-content/uploads/proceedings/2016/184-kerr-price-roman-effect-corporate-paper.pdf</p>	

	<p>OCDE – Centre for Tax Policy and Administration. Good Corporate Governance: The Tax Dimension. Setembro de 2006. Disponível em: http://www.oecd.org/site/ctpfta/37207911.pdf</p> <p>SCHOFIELD, Max. Corporate governance and tax: Stronger together. Governance Lab Working Paper no. 1/2015. Disponível em: http://www.governancelab.org/media/document/5b/88/4e0d1e2b2917a0e419318fe54a3a.pdf</p>
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5	04/06/18	Tributação e Regulação Econômica. Tributos “Pigouvianos”. Excise Taxes e Sin Taxes.
Leituras Obrigatórias	<p>FLEISCHER, Victor. Curb Your Enthusiasm for Pigouvian Taxes. <i>In: Vanderbilt Law Review</i>, vol. 68, 2015, p. 1673-1711. Disponível em: https://www.vanderbiltlawreview.org/wp-content/uploads/sites/89/2015/11/Curb-Your-Enthusiasm-for-Pigovian-Taxes.pdf</p> <p>HINES JR., James R. Excise Taxes. University of Michigan – OTPR Working Paper WP 2007-2. 2007, 5p. Disponível em: http://www.bus.umich.edu/OTPR/WP2007-2.pdf</p> <p>PERKINS, Rachele Holmes. Designing Taxes in the New Sin Era. <i>In: Brigham Young University Law Review</i>, Vol. 2014, No. 1, p.143-184 (especialmente p. 103-115) Disponível em: https://www.law.gmu.edu/assets/files/publications/working_papers/1433.pdf</p> <p>PETKANTCHIN, Valentin. The pitfalls of so-called “sin” taxation. IEM’s Economic Note, 2014, 4p. Disponível em: http://www.institutmolinari.org/the-pitfalls-of-so-called-sin,1778.html</p>	
Leituras de apoio	<p>AVI-YONAH, Reuven S. Taxation as Regulation: Carbon Tax, Health Care Tax, Bank Tax and Other Regulatory Taxes. U of Michigan Law & Econ, Empirical Legal Studies Center Paper No. 10-020. 2010, 10p. Disponível em: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1664045</p> <p>BADENES-PLÁ, Nuria; JONES, Andrew M. Addictive goods and taxes: A survey from an economic perspective. <i>In: Revista de Economía Pública</i>, 167, 2003, p. 123-153. Disponível em: http://www.ief.es/documentos/recursos/publicaciones/revistas/hac_pub/167_Badenes.pdf</p> <p>GEARING, Maeve; ISELIN, John; e MARRON, Donald. Should We Tax Unhealthy Foods and Drinks. Urban Institute & Brookings Institution Tax Policy Center Report. 2015, 36p. Disponível em: https://www.urban.org/sites/default/files/publication/76316/2000553-Should-We-Tax-Unhealthy-Food-and-Drinks.pdf</p> <p>LEVMORE, Saul. From Helmets to Savings and Inheritance Taxes: Regulatory Intensity, Information Revelation, and Internalities. <i>In: University of Chicago Law Review</i>, vol. 81, 2014, p. 229ss. Disponível em: http://web.law.columbia.edu/sites/default/files/microsites/policing-litigation-conference/files/Intensity%20and%20Revelation%20Sept%2025%20colloquium.pdf</p> <p>MARRON, Donald B.; e MORRIS, Adele C. How Should Governments Use Revenue From Corrective Taxes? Urban Institute & Brookings Institution Tax Policy Center Report. 2016, 21p. Disponível em: http://www.taxpolicycenter.org/publications/how-should-governments-use-revenue-corrective-taxes</p> <p>POSNER, Eric A; MASUR, Jonathan S. Toward a Pigouvian State. <i>In: Univ. of Pennsylvania Law Review</i>, vol. 164, 2015, p 93-147. Disponível em:</p>	

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6	11/06/18	Aspectos Econômicos da Tributação do Capital e de Grandes Fortunas.
Leituras Obrigatórias	BRUMBY, James; KEEN, Michael. Game-Changers and Whistle-Blowers: Taxing Wealth. <i>In</i> : IMF Blog. 13 de fevereiro de 2018. Disponível em: https://blogs.imf.org/2018/02/13/game-changers-and-whistle-blowers-taxing-wealth/	
	CARVALHO JR, Pedro Humberto Bruno de. As discussões sobre a regulamentação do Imposto sobre Grandes Fortunas: a situação no Brasil e a experiência internacional. Nota Técnica IPEA n. 7, 2011, p. 9-36. Disponível em: http://www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/111230_notatecnicadinte7.pdf	
	OCDE. The Role and Design of Net Wealth Taxes in the OECD. 2018, p. 11-24; e p. 47-70. Disponível em: http://www.oecd.org/ctp/the-role-and-design-of-net-wealth-taxes-in-the-oecd-9789264290303-en.htm	
	EVANS, Chris. Wealth taxes: problems and practice around the world. CHASM Briefing Paper. 2013, 5p. Disponível em: http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/CHASM/briefing-papers/2013/wealth-taxes-problems-and-practices-around-the-world.pdf	
	PIKKETY, Thomas. Capital and Wealth Taxation in the 21st Century. <i>In</i> ; National Tax Journal, June 2015, 68 (2), p. 449-458. Disponível em: http://piketty.pse.ens.fr/files/Piketty2015NTJ.pdf	
Leituras de apoio	MCCAFREY, Edward J. Taxing Wealth Seriously. 2016. Disponível em: https://www.ntanet.org/wp-content/uploads/proceedings/2016/258-mccaffery-taxing-wealth-seriously--paper.pdf	
	QUEIROZ E SILVA, Jules Michelet Pereira. Imposto sobre Grandes Fortunas, Fuga de Capitais e Crescimento Econômico. Consultoria Legislativa da Câmara. 2015, 9p. Disponível em: http://www2.camara.leg.br/documentos-e-pesquisa/publicacoes/estnottec/areas-da-conle/tema20/2015-5979-imposto-sobre-grandes-fortunas-e-fuga-de-capitas-jules-michelet	
	SLEMROD, Joel B. The Economics of Taxing the Rich. NBER Working Paper No. 6584, 1998. Disponível em: http://www.nber.org/papers/w6584	
	VÁRIOS AUTORES. Taxing Wealth: Past, Present, Future. European Commission, Discussion Paper 003, Caterina Astarita (ed.). 2015, 79p. (especialmente p. 16-30). Disponível em: http://ec.europa.eu/economy_finance/publications/eedp/pdf/dp003_en.pdf	

7	18/06/18	Tendências e Desafios da Tributação dos Negócios da Economia Digital.
Leituras Obrigatórias	EUROPEAN COMMISSION. Time to establish a modern, fair and efficient taxation standard for the digital economy. Março de 2018, 10p. Disponível em: https://ec.europa.eu/taxation_customs/sites/taxation/files/communication_fair_taxation_digital_economy_21032018_en.pdf	

	<p>OCDE. Addressing the Tax Challenges of the Digital Economy, Outubro de 2015. (ler especialmente as páginas 11-32; e 141-148). Disponível em: http://www.oecd.org/ctp/addressing-the-tax-challenges-of-the-digital-economy-action-1-2015-final-report-9789264241046-en.htm</p> <p>SAINT-AMANS. Pascal. Tax challenges, disruption and the digital economy. In: OECD Observer nº 307, Q3 (2016). Disponível em: www.oecdobserver.org/news/fullstory.php/aid/5600/Tax_challenges_disruption_and_the_digital_economy.html</p>
Leituras de apoio	<p>DEVEREUX, Michael P.; VELLA, John. Implications of digitalization for international corporate tax reform. Oxford University Centre for Business Taxation, Working Paper 17/07. Julho de 2017, 27p. Disponível em: https://www.sbs.ox.ac.uk/sites/default/files/Business_Taxation/Docs/Publications/Working_Papers/Series_17/WP1707.pdf</p> <p>OLBERT, Marcel. International Taxation in the Digital Economy: Challenge Accepted. 2016. 42p. Disponível em: https://www.sbs.ox.ac.uk/sites/default/files/BusinessTaxation/Events/conferences/2016/Doct oralmtg2016/olbert.pdf</p>

8	25/06/18	Tributação, Compliance e Cooperação Multilateral. Tributação Transnacional. Tributos Globais. Acesso do Brasil à OCDE.
Leituras Obrigatórias	<p>BIRD, Richard M. Global Taxes and International Taxation: Mirage and Reality. ICTD Working Paper 28. 2015, 37p. Disponível em: http://www.ictd.ac/publication/2-working-papers/21-global-taxes-and-international-taxation-mirage-and-reality</p> <p>CHONGHAILE, Clár Ní. A system of privilege and benefits': is a global tax body needed. In: The Guardian. 11 de abril de 2016. Disponível em: https://www.theguardian.com/global-development/2016/apr/11/system-privilege-benefits-global-tax-body-oecd</p> <p>ESTEVÃO, Marcello. O Brasil na OCDE: o que está em jogo? 28 de junho de 2017. Disponível em: http://www.fazenda.gov.br/sala-de-imprensa/artigos/2017/artigo-o-brasil-na-ocde-o-que-esta-em-jogo</p> <p>OCDE. A OCDE e o Brasil lançam projeto para examinar as diferenças nas regras fiscais internacionais. 28 de fevereiro de 2018. Disponível em: http://www.oecd.org/newsroom/a-ocde-e-o-brasil-lancam-projeto-para-examinar-as-diferencas-nas-regras-fiscais-internacionais.htm</p> <p>STEWART, Miranda. Transnational Tax Law: Fiction or Reality, Future or Now? Working Paper, 2016, 43 p. (especialmente p. 1-22; p. P. 33-41). Disponível em: http://www.law.nyu.edu/sites/default/files/upload_documents/Miranda%20Stewart3.pdf</p>	
Leituras de apoio	<p>COBHAM, Alex; e KLEES, Steven J. Global Taxation: Financing Education and the Other Sustainable Development Goals. A Report to The International Commission on Financing Global Education Opportunity. 2016, 33p. Disponível em: http://www.taxjustice.net/wp-content/uploads/2016/11/Global-Taxation-Financing-Education.pdf</p> <p>COY, Peter. An Immodest Proposal: A Global Tax on the Superrich, 10 de abril de 2014. Disponível em: http://www.businessweek.com/printer/articles/194541-an-immodest-proposal-a-global-tax-on-the-superrich</p>	

HATCHUEL, Romain. The Coming Global Wealth Tax. *In: The Wall Street Journal*, 3 de dezembro de 2013. Disponível em: <http://www.wsj.com/articles/SB10001424052702304355104579232480552517224>

ONU. UN calls for international tax to raise \$400 billion to finance development needs. 2012. Disponível em: <http://www.un.org/en/development/desa/news/policy/wess2012.html>

PAUL, James A; e WAHLBERG, Katarina. Global Taxes for Global Priorities. Global Policy Forum – the World Economy, Ecology and Development Association (WEED) e Heinrich Böll Foundation. 2002, 29p. Disponível em: <http://www.umich.edu/~spp638/Coursepack/fin-globaltaxes.pdf>

RIXEN, Thomas. Global tax governance: What It is and Why it Matters. 2016, 22p. Disponível em: https://www.researchgate.net/publication/302565455_Global_tax_governance_What_It_is_and_Why_it_Matters

SCHUTTE, Giorgio Romano. Governança Internacional e Imposto Global. *In: Tributação e Equidade no Brasil*, 2010, p. 409-430. Disponível em: http://www.ipea.gov.br/agencia/images/stories/PDFs/livros/livros/livro_tributacaoequidbrasil.pdf

AVALIAÇÃO

Composição da avaliação

A avaliação levará em conta três variáveis: (i) regularidade e qualidade dos apontamentos escritos semanais, referentes às aulas 2 a 8 (30%); (ii) desempenho como “aluno protagonista”, uma vez durante o curso (20%); (iii) elaboração de um ensaio de 5 a 6 laudas, a ser apresentado após o término do curso, sobre um dos temas abordados nas aulas (50%).

PROFESSOR

Flavio Rubinstein

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