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*International Tax and Estate Planning* by Robert C.  
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## BOOK REVIEW

### INTERNATIONAL TAX AND ESTATE PLANNING<sup>1</sup>

BY ROBERT C. LAWRENCE III

New York: Practising Law Institute, 1983, Pp. 719, \$85.

This book is directed at practitioners engaged in counseling multinational investors on planning investments so as to conserve assets and transmit them in the manner and to the persons desired, while keeping the ultimate beneficial ownership confidential, minimizing taxation and protecting their investments against governmental expropriation. The author, a partner in the New York City law firm of Cadwalader, Wickersham & Taft, has spent 7 years researching and writing the material and more than 25 years practicing in this area.

The book is divided into eight chapters, Chapter 1, entitled "Conflict of Laws," gives the practitioner an introduction to the concepts and issues involved in identifying and resolving choice-of-law problems to facilitate planning for clients with multinational assets and contacts. After surveying U.S. laws concerning domicile and judicial jurisdiction on original probate of a will, the author gives an overview of choice-of-law approaches. In the conclusion of the chapter, he gives useful general suggestions on planning mechanisms to solve choice-of-law problems.

Chapter 2, entitled "Federal Estate and Gift Taxation of U.S. Citizens Living Outside the U.S. and Resident Aliens," contains a useful overview of the classification of persons for purposes of federal income, estate and gift tax. However, the 1984 Tax Reform Act already renders the portion on classification of residency obsolete, and points to the major area of potential improvement—a

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1. This book review was previously published, in its entirety, in 79 AM. J. INT'L L. 248 (1985).

new edition and, even more importantly, regular updates, since the law and regulations continue to change dynamically.

Chapter 3, entitled "Federal Estate and Gift Taxation of Non-resident Aliens," begins by presenting useful planning considerations for persons about to transfer their residency. After a thorough discussion of the gross estate and situs rules, the chapter highlights the use of estate tax deductions and credits for the non-resident alien, rates of tax and expatriation to avoid federal taxes. At the conclusion of the chapter, the U.S. model estate and gift tax treaty is examined and there is a brief discussion of the estate and gift tax treaties that the United States has concluded. This section could be improved by more discussion and reference to existing U.S. estate and gift tax treaties.

Chapter 4, entitled "Jointly Held and Community Property," provides an overview of the common law and community property law systems of concurrent ownership and a discussion of (1) the effect of a change in the marital domicile or in the situs of certain investments; (2) some federal estate and gift tax problems associated with the different forms of joint and community ownership; and (3) suggested methods of planning for the migrant couple. The planning ideas are of particular utility to the practitioner.

Chapter 5, entitled "Sovereign Risks, Expropriation, and the Act of State Doctrine," after a discussion of the general principles of international law on expropriation and the act of state doctrine, contains a discussion of "flee devices" (by which a corporation or trust can expeditiously flee the sovereign of its incorporation in a manner that will be recognized as legally enforceable by a court in the friendly sovereign where the assets are located) and surveys the law of flee devices in tax haven jurisdictions.

Chapter 6, entitled "Bank Secrecy," discusses the ability of U.S. authorities to reach records in tax haven jurisdictions with bank secrecy laws, the legal ability of a foreign trustee to refuse to provide information and the vitality of constitutional and comity considerations under which the United States may not impose sanctions against the party or witness for failing to respond to court-ordered disclosure. The material in this chapter has changed so dramatically, with proposed regulations under the Bank Secrecy Act and several important judicial decisions and conventions, that it needs updating already.

Chapter 7, entitled "Trusts," provides background on the con-

cept of trusts and the advantages of foreign trusts. A thorough discussion is provided on elements of foreign trust agreements. A useful discussion of the taxation of various types of trusts under U.S. tax law is given. The chapter also discusses the use of corporations in conjunction with foreign trusts and U.S. tax considerations, U.S. antiavoidance rules and filing requirements and penalties are discussed. Several changes in both antiavoidance rules and filing requirements require updating. A useful discussion of patriation or decantation of foreign situs trusts is given. This chapter is very well done and quite useful to the practitioner.

Chapter 8, entitled "Wills, Administration, and the Revenue Law," sets forth the general principles of testamentary and intestate disposition of property, including the use of multiple wills and other complicating factors in the administration of a multinational estate. The chapter contains many good planning hints and practical discussion of potential administration problems encountered.

The book has two appendixes—on the summary of laws of forced heirship of certain Western European countries and on sample conditions for flee clauses. The book also contains an index and tables of authorities.

The book is a well-written exposition of a new area of international law that is growing in importance.<sup>2</sup> The author's long experience in this field and the many persons who assisted on the chapters make the book an excellent resource tool for practitioners and academicians. It is well annotated, so that it facilitates research as well as provides an overview.

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2. Other books on this subject include W. NEWTON, *INTERNATIONAL ESTATE PLANNING* (1981); *INTERNATIONAL ESTATE PLANNING* (Geller & Harris eds. 1982); and *CURRENT LEGAL ASPECTS OF INTERNATIONAL ESTATE PLANNING* (Hendrickson & Stevens eds. 1981).