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Book Reviews

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Book Reviews

INCOME TAX PROCEDURE, 1923, by ROBERT H. MONTGOMERY.

Ronald Press Company, New York. 1750 pages.

The first characteristic of the 1923 edition of Montgomery's *Income Tax Procedure* which strikes one is its marked improvement in size and weight over the 1922 issue. While the present volume isn't exactly a vest-pocket edition, nevertheless it is possible to take it home o' nights and still carry something else at the same time. Its improvement was secured chiefly by the use of thinner paper, but partly by the reduction in pages from 1936 in its predecessor to 1784 (in all) in this one. This page reduction was accomplished without any change in the plan of the book. The excess-profits-tax supplement was reduced by 82 pages, 50 pages of forms were omitted and the section concerned with the determination of income was shortened by 65 pages. On the other hand, the indexes have been increased by 25 pages, principally by the addition of one covering treasury department rulings, ten pages have been added to the preface and table of cases, and the section dealing with administrative matters has been enlarged by 14 pages.

The typography is excellent; a casual reading failed to disclose any misprints. This year's manual was in the hands of the public on January 1st. For this we are indebted to the author's organization of collaborators and material and to congress which considerably refrained from tinkering with the 1921 act.

In the introductory chapter there is enough historical and general information to enable one to use the book effectively. Indeed, it would be difficult to pass on some of the unsettled questions arising under the 1921 law without a fair knowledge of the development of income taxation since Wisconsin's experiment in 1911. Among matters of general interest is the tabulation of personal returns for 1920 published by the commissioner, which shows that over one-third were for incomes of \$2,000 or less, over one-third were for incomes between \$2,000 and \$3,000 and five-sevenths were for \$5,000 or less. This seems to indicate the wide-spread existence of tax-exempt securities, which the author argues in a later paragraph must be reduced or eliminated unless the whole future of income taxation at progressive rates is to be threatened. In this chapter it is pointed out that the 1921 law has increased rather than decreased the technical difficulties of determining net income.

In commenting on the main sections of the book, it is impossible within any reasonable space to call attention to each point of value. Even without the restriction of space, real thoroughness would be unattainable because of the very limited time between publication and the date when this review had to be submitted. It is hoped, however, that some of the outstanding features of the volume will be indicated.

There are few matters with which one can disagree and those few are comparatively unimportant. In the 1922 review the opinion was ventured that some attention should have been given to the taxability (under the normal tax) of so-called interest on savings-bank deposits. In the present issue, this matter is discussed but not as fully as might be justified.

It is presented in two distinct places, under interest and under dividends, without cross references, and in the general index ingenuity is required to find either one. If the matter is of sufficient importance to warrant an opinion by the counsel for the American Bankers Association, it is important enough to be indexed clearly and discussed adequately in this tax manual. In the chapter on the estate tax, the author continues to argue against the taxability of life insurance payable to beneficiaries other than the estate, on the premise that the proceeds of such insurance were never liable for decedent's debts. It was suggested in the 1922 review and it is still believed that this is too broad a statement. A quick reading of the volume reveals a few minor points like these two, whereon one might reasonably disagree with the author, but viewed as a whole, it is difficult to see how a more practical manual of this kind could be prepared.

In part I, application and administration, one of the most useful chapters is that on penalties. In it is an explanation of what constitutes negligence on the tax-payer's part. It contains also a chapter on the organization of the bureau and the procedures to be followed by tax-payers and by persons who seek to represent them before the treasury. A troublesome matter of procedure is the preparation of appeal papers and agreements between the commissioner and the taxpayer; this is explained and illustrated. Taxpayers are told in what circumstances they may apply for an injunction against the collection of a tax. The author suggests a solution of the difficulty of reporting the exact salary or wage payment to each individual employe; he proposes that the regulations be changed to permit the employer to report merely the name and address of each employe who received \$1,000 or more during the year.

In part II, income, the author discusses the difficulty of calculating the tax to be borne by the recipient of a bonus based on net profits after deduction of the income tax and refers to his formula given in his 1922 edition. Foreign exchange is treated in detail and the important subject of inventories is given an entire chapter. The new topic of capital gains is handled in two chapters, one of which contains a chart showing graphically the effect of differences between prior cost and value at March 1, 1913. Stock dividends on stock of no-par value are considered at length. A highly technical section, but one of value to oil and mineral companies, is that dealing with dividends paid from depletion reserves based on discovery value.

Part III presents the subject of deductions. Fifty pages are devoted to specific and definite suggestions about depreciation rates and practices and in them one can find almost any kind of asset listed and a reasonable depreciation rate suggested. In another chapter occurs one of the author's humorous touches, which help to make the book readable despite its encyclopædic nature. He tells of the disallowance as an expense of an item which was then allowed as a deductible loss. Of this hairsplitting, he says, "For a distinction without a difference, the foregoing takes first prize."

The author's language is vigorous as well as lucid. In part IV, special classes of taxpayers, he refers to the recent epidemic of stock

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dividends as "due to the hysterical suggestions of uninformed persons," and then he discusses that expedient as a means of evading section 220. After the chapter on the taxation of undistributed corporate profits, the author includes non-resident aliens, fiduciaries, insurance companies and farmers.

The book is brought to a formal close by part V, which consists of a chapter on the federal estate tax and one on the federal capital stock (excise) tax. Following these chapters is the 1921 act and an appendix by way of supplement to the excess-profits-tax procedure of 1921. A valuable feature of that supplement is the chapter on relief sections; application for relief must be made prior to April 1, 1923.

This review can be summarized, perhaps, by stating that the 1923 edition is an exceedingly useful tax manual. It is not a course of study for the novice, but it should be in the hands of attorneys, accountants, corporate officers and others who have to do with the preparation or review of returns. It can be used to the best advantage by those who have access to one or more of the preceding editions.

HAROLD DUDLEY GREELEY.

FEDERAL INCOME TAX PROBLEMS—1922, by E. E. ROSSMOORE.

Dodd, Mead & Company, New York. Leather, 541 pages.

There are two ways of writing commentaries on the income-tax laws. The first, and the customary one, is to take up the acts section by section, quoting the law, explaining its application, noting exceptions and distinctions evolved through court and treasury decisions, and perhaps giving practical illustrations now and then. This method is followed in the official treasury regulations and pre-eminently by Col. Montgomery in his standard work. The other method states a practical problem under each section of the law, gives the correct solution, and then quotes the section or paragraph of the law upon which the solution is based. This is the method followed by Mr. Rossmore in *Federal Income Tax Problems—1922*. As an example take,

Facts:

PROBLEM 13.

The Atlas Book Concern on December 27, 1921, declared a cash dividend payable December 31, 1921. Dividend checks were accordingly mailed on December 31, 1921, but out-of-town stockholders did not receive their checks until early in 1922.

Question:

For what year do the out-of-town stockholders, reporting on the calendar-year basis, report as income the dividends mailed to them in 1921 but received by them in 1922?

Answer:

The dividends should be reported as income in 1921.

References:

Sec. 201 (e) (quoted in full).

The first method is that of the lawyer or accountant who studies the law as a whole. The second meets the needs of the tax-payer who has certain concrete, practical problems to solve in making up his return, and who wants the answers in as brief and authoritative form as pos-

sible. With the help of a good index and table of contents, he looks up the problems in the book which correspond to his own and finds the answers stated in plain terms. He is not perplexed, and perhaps led astray, by discussions of modifications that may have been made by court decisions or treasury rulings. Mr. Rossmoore has digested all that in advance; his answer represents—or is supposed to represent, the latest official interpretation.

While the work shows every evidence of the most careful preparation, it must be admitted there is some danger for the unwary reader who is not trained to weigh the meaning of words, or to state even in his own mind the exact terms of his own problems. Take the one quoted above for example. Many careless readers are apt to jump at the conclusion that *any* dividend cheque received early in January must be returned as income for the previous year, failing perhaps to have noticed on the accompanying letter of transmissal the date when the dividend is payable. I think Mr. Rossmoore would have made the point clearer if he had added another problem with the due date changed to January 2nd. In that case the stockholders would return the dividend as income for 1922. Of course a writer cannot be expected to supply brains for his readers, but as this book is obviously written for the purpose of saving brainwork on the part of its readers it cannot be made *too* plain. Another point of weakness as compared with the usual method of treatment is that while the book appears to be all-comprehensive, yet, as the pile of internal revenue bulletins on my desk indicates, there must be a number of problems arising since March, 1922, which are not included. This, of course, affects any method of treatment, but in this case it would mean that the reader relying on the book would be left in the lurch, or might even make an erroneous return based on previous practice. But this cannot be helped. No doubt there will be forthcoming an up-to-date edition for 1923.

W. H. LAWTON.

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