

McCarthy, Mann, Abbin, Gregory & Lindgren: The Federal Income Tax, Its Sources and Applications

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Recommended Citation

Raymond S. Weisler, *McCarthy, Mann, Abbin, Gregory & Lindgren: The Federal Income Tax, Its Sources and Applications*, 18 DePaul L. Rev. 337 (1968)

Available at: <https://via.library.depaul.edu/law-review/vol18/iss1/18>

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BOOK REVIEWS

The Federal Income Tax, Its Sources and Applications. BY CLARENCE F. MC-CARTHY, BILLY M. MANN, BYRLE M. ABBIN, WILLIAM H. GREGORY, AND JOHN P. LINDGREN. Englewood, New Jersey: Prentice Hall, Inc., 1968. Pp. 552. \$9.95.

A text book on Federal Income Taxation, written in an interesting manner and pointed to a basic understanding of tax law rather than a listing of rules, is hard to come by. The authors here have been eminently successful in producing one.

Their major premise is that our tax law is a combination of accounting concepts, legislative enactments, administrative law, and case law, all of which may be applied by the use of accounting techniques. By way of introduction to an understanding of the specific subject areas and problems under the Internal Revenue Code and Regulations, a brief history of taxation in the United States and a survey of the system under which it operates is presented. Some attention is given to a measure of fairness in the evaluation of the Federal Income Tax as a "good" tax, based on questions of equality, certainty, convenience of payment, and convenience of collection. A short outline of the sources of tax law from the legislative, executive and judicial branches of government introduces an excellent list of reporting services and other publications relating to these sources, placing each source into context with the weight of authority to be given each.

As cogent and interesting as the authors have made their introductory chapters, the substantive areas making up the major part of the text are extraordinarily readable. From the discussion of "What is Income" to the chapters on accounting methods, sales and other dispositions of property, corporate, partnership and other entity special problems, the material is handled from a sound pedagogic approach. Each subject is in clear non-technical language and related to the Code section from which the question arises. Pertinent examples of the problems and the resulting rules are quoted from the Regulations, Income Tax Rulings, Treasury Decisions and other administrative sources of the law, as well as explanations and quotations from many landmark cases dealing with certain subject areas. Abundant footnotes direct the student to many areas of source material.

One of the sources of irritation in many texts and some of the reporting service tax course books has been eliminated in this text. A rather complete table of contents along with an excellent subject index directs the student to the subject matter. An unusual feature of the index is a reference to chapter and paragraph number, each paragraph in the volume being indexed in this manner. Cross referencing also helps tie in all of the related material affecting the subject under study. An index of cases by name of defendant completes the indexing assists.

Each of the fifteen chapters is followed by a set of illustrative problems well designed to firm up the principles discussed in that chapter, with an appendix devoted to a problem in Individual Income Tax Return Preparation. One has the feeling that these problems are an amalgam of the authors' experience in the areas of taxation covered, as the tax situations are both interesting and practical.

The bookshelves of a teacher of Income Tax Law are laden with works on the subject which gather dust and are only occasionally referred to. This work has,

literally, something for everyone. The student is given an interesting and fully explained approach to the subject, with good direction for study in depth. The teacher is given a well organized, well documented text to teach from. And the work would be a worthwhile addition to the library of a practitioner who may need a short, lucid answer to one of the myriad questions which arise periodically covering a point which we knew well but have forgotten.

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Property Law Indicted! By W. BARTON LEACH. Lawrence, Kansas: University of Kansas Press, 1967. Pp. 94. \$2.25.

The brevity of this virtual transcript of Professor Leach's 1966 Stephens Lectures at the University of Kansas School of Law is deceptive, because within this volume the author touches upon broad questions of policy, such as prospective over-rule, the judicial reconstruction of estates and trusts and the protection of wives and descendants from disinheritance, while at the same time he is dealing with or mentioning in passing a wide range of other property law matters such as the extension of cy pres, the rule in Shelley's Case, the Doctrine of Worthier Title, inheritance by adopted children, anti-lapse legislation, powers of appointment, the preference for vested over contingent remainders, death without issue, the distinction set forth in Clobberie's Case, conveyancing reform, and the rule against perpetuities.

Since, however, Professor Leach's views on the above topics are well known to the academic lawyer and since the treatment of most items is very short and uneven in any case, this slim volume will be of most value to the well-read practicing attorney who has a difficult case and who needs some bold and authoritative language to hand to a trial judge, or to quote in an appellate brief, to induce a court to do a little innovating, preferably in the area of property law.¹

Professor Leach, of course, favors innovation by judges and legislators, prodded onward by law professors and practicing lawyers.² He recognizes that a practicing

¹ There are abundant quotations by Professor Leach from non-Leach sources, as well as a good supply of his own pungent comments. For instance: "[T]he Doctrine of Worthier Title, the Doctrine of Destructibility of Contingent Remainders, and the Rule in Shelley's Case" are "abominations." LEACH, *PROPERTY LAW INDICTED!* 9 (1967). The cases dealing with the so-called rules of construction present "a nauseating collection of judicial garbage." *Id.* at 60.

² "My purpose in these hours is to put what I consider proper emphasis on the obligation of the legal profession to reform the law, by both judicial and legislative action, where existing rules are unjust." *Id.* at 3. "My purpose is to be sure that our state courts in private law cases realize that the shackles have fallen away—that where they find that (a) existing decisions are bad law and (b) retroactive application would cause injustice, they are free to overrule the bad law and eliminate the injustice of