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## Book Reviews

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## Book Reviews

DOUBLE TAXATION OF PROPERTY AND INCOME, by A. L. HARDING,  
*Harvard University Press.* 326 pages.

*Double Taxation of Property and Income* is an exhaustive exposition of the progress of the laws imposing duplicate taxation on property and income, and it is written from a highly legalistic point of view. Perhaps an excerpt from the introduction may give a rather clear idea of the character of the work. Speaking of the desire of the public for a law that is certain and predictable as to its incidence the author says:

"If we can satisfy this demand without at the same time stripping from the law its virility and power of growth we perform one of the services involved in the end of the law."

The power of growth of tax law is not so stunted as to indicate torpidity of the pituitary glands.

Discussion of the duplication of tax imposition takes the form of comparison of certain "legal principles or theories," the "control theory," being the theory that the jurisdiction having control, through incorporation or otherwise, is the jurisdiction that can and should impose and enforce payment of taxes and the "protection" theory, being a theory that the jurisdiction that affords protection should receive the taxes, and an "integration theory," which is a theory based upon "economic integration," whatever that may mean. Each of these three theories is said to have had some support from supreme court decisions, and it is implied that the conflict of theories has induced double taxation.

The author favors the last named theory. His comments lead to the conclusion that he attaches importance to the establishment of legal theory and has less care for the effect upon the taxpayer—if the latter benefit, well and good, but that is incidental.

The text is crowded with references to litigated cases and court decisions and there are voluminous footnotes. There are also twenty pages of index to cited cases.

If jurisdictions should restrict taxation to such as might be assessed under any one of these theories, the several jurisdictions using differing theories, the result would necessarily be that some property and income would be multiply taxed and some would escape altogether. Some is multiply taxed, but does any escape?

It would have added interest to the book if the author could have told of specific jurisdictions that have adopted specific legal theories of taxation to the exclusion of other theories. Perhaps there are not any. But if jurisdictions will not admit the propriety of such restriction there is small hope of relief from injustice in argument as to the relative merits of differing legal principles.

This book is emphatically a book for lawyers. It should be of much value to those who have to deal with litigated cases involving double taxation. It offers little to the taxpayer; if it be a corporation, income tax is assessed by this state, by the federal government, and by the city of New York, and when distributed in dividends it is again taxed by the state and by the federal government as income to the persons receiving dividends. Argument as to theories of taxation would avail little to induce any of these jurisdictions to cease collecting any of the five assessments.

F. W. THORNTON