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Book Reviews

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Book Reviews

INCOME-TAX PROCEDURE, 1925, by R. H. MONTGOMERY. *Ronald Press Co.*, New York.

The 1925 edition of the annual classic on the American income tax is in bulk a twin to the 1924 edition but has the newness inspired by a new revenue act and by one more year's experience in the elucidation of ambiguities. It has chapters devoted to the federal estate tax, the new gift tax and the federal capital-stock tax, and it has still a few pages on excess-profits-tax procedure in the form of addenda only, to record what has been officially learned about those war imposts in the last year. But over ninety per cent of the book is devoted to the subject indicated by its title, procedure connected with the income tax, meaning always the federal tax. Profusely and variously indexed, with the full text of the 1924 act, keys to the sections of the law, the articles of the regulations and rulings and decisions quoted or referred to and with footnotes on former procedure, the book is remarkably self-contained.

Those who have become accustomed to look to Colonel Montgomery for expressions of opinion, as distinct from rulings, will not be disappointed, and the contrasts between the 1921 and 1924 acts offer opportunities for individual interpretations. Take, for instance, those very significant sections of the law dealing with gains and losses, their determination, recognition and basis—probably the most important single subject in the entire income-tax law. Commenting on the abandonment of the former practical criterion of a gain or loss, “readily realizable marketable value,” and the substitution of the rule that a profit must always be determined by considering “the fair market value of the property received,” the author advises us that the change is entirely without effect. The test still remains: Has the property received a fair market value? And if it has not, the transaction is not closed so far as that property is concerned. What fair market value may mean is also fully discussed in chapter XXV. Again, the author casts doubt upon the legality of the new rule for taxing the profit on gifts accrued prior to the date of the gift, by compelling the donee to use the donor's basis in determining the profit on realization. The similar inconsistency in forcing the use of the predecessor's basis by a corporation acquiring property on a tax-exempt exchange or sale seems to be accepted, notwithstanding the treasury department's adherence to the principle of the distinct identity of corporations.

In criticizing the retroactivity of this rule, however, the author points out that two more classes of cases are not covered: those consummated before the specified dates and those in which the “control” conditions are not met. It is suggested that there is still a loophole in the law for raising the basis for gain, depletion and depreciation through a reorganization with the introduction of a new interest of over 20 per cent for cash. In that case the transaction would (under section 203 b-4) not be closed so as to render the old stockholders liable to tax on the gain until they dispose of the new securities.

While all the loopholes in the law may not yet be closed, the author on the other hand sounds notes of caution to the taxpayer to exercise care in creating safe conditions for exchanges to comply with all the technicalities of the law.

For instance, to exchange old bonds for new bonds in the same corporation is not a "reorganization," nor does it come within the exempt classes of parallel exchanges specified in section 203 (b) 1; so that unless it can be brought within the control provisions of section 201 (b) 4, such a transaction must be brought to account in computing taxable income. Another illustration: To avoid the double tax that would fall on a corporation and its stockholders when the corporation sells its assets at a profit and distributes the proceeds among the stockholders, the individual stockholders of the selling corporation are reminded that they should sell their stock to the vendee.

The book in the main upholds the treasury department, and it praises the new board of tax appeals. There are no criticisms where there is no room for question, but the reader should not expect to find advice on ways to evade taxes. While the author does not regard the teeth with which the undistributed-profits tax (section 220) has been armed as any more efficient than the "pathetic" efforts in the past to "pursue the reluctant dividend," he does not offer to artful schemers any plan for circumventing its application.

It is not only in its detailed features that *Income-tax Procedure, 1925* is valuable but in the broad strokes given in the editorial text. Discussions of the succession of laws we have been blessed with, of the fallacy of tax-exempt securities and of the need for less definition in the law and more discretion in its administration, expressions of hope for continuation of executive leadership and of opposition to retroactive legislation—these are topics that aid the reader to keep a perspective in viewing the subject of taxation as a part of a still unfolding history.

But when Colonel Montgomery indulges in one of his favorite pastimes, his prophecies contradict history. The form his 1925 exposure of the incompetence of congress takes is an assurance that if a majority of the "smarter" sex be elected in 1926 a law of greater simplicity—and of fewer words—will result. The author's indignation at the revelation of symptoms of human nature in a male congress prompts the question: Are not women also people? Experience answers: Yea, even more so!

FRANCIS J. CLOWES.

ACCOUNTING PROBLEMS: ELEMENTARY, By CHARLES F. RITTENHOUSE, and ATLEE L. PERCY, *McGraw-Hill Book Co.*, New York.

A book purely of laboratory material, consisting of practical problems and questions on theory adapted to the first-year student in accounting. The problems and questions are well graded and varied and may be used readily in conjunction with almost any text-book or to furnish drill-work supplementary to lectures. A helpful book for teachers and examining boards.

W. H. LAWTON.