

6-1921

Book Reviews

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Recommended Citation

Lawton, W. H. (1921) "Book Reviews," *Journal of Accountancy*. Vol. 31: Iss. 6, Article 8.

Available at: <https://egrove.olemiss.edu/jofa/vol31/iss6/8>

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Book Reviews

EXCESS PROFITS TAX PROCEDURE, 1921, by ROBERT H. MONTGOMERY. *The Ronald Press Co.*, New York.

To the future historian the excess-profits-tax laws of 1917 and 1918 (the latter with some modifications extending to 1920) will prove an interesting and perhaps amusing revelation of the congressional mind. Ostensibly passed purely for revenue purposes, it was no secret that congress not only sought to prevent capital from securing inordinate war profits but also to restrict all profits regardless of their source. It produced revenues beyond all expectations, but it utterly failed to prevent huge war profits. The law of 1917 was so badly drawn that it was incomprehensible and unworkable in spots, but it was successful as a revenue producer because the treasury department had the courage to interpret its terms liberally, even in practical defiance of the law itself, strictly construed. Applying the old-time freight-rate maxim of the railroads, "all the traffic will bear"—a maxim anathema to Washington statesmen since the '80s—congress loudly proclaimed its intention to tax all classes in accordance with their ability to pay. But the corporation-baiters could not resist the opportunity to discriminate against corporation profits in the 1917 law, and in the 1918 law openly threw the entire burden of the excess-profits tax upon the corporations. The result was that many small corporations were unjustly burdened while individuals and firms with equal profits escaped entirely. Finally, the 1918 law was not enacted until February, 1919, fourteen months after its effective date of January 1, 1918, and only nineteen days before the returns for 1918 were due to be filed. Considering these salient facts and adding the many confused and obscure provisions of the laws, provisions which have needed thousands of treasury decisions and departmental rulings to explain them, the historian may well marvel at the level of congressional intelligence thus indicated.

In spite of glaring inequities and injustices, the American business man paid—and paid cheerfully. It was part of his bit to win the war. Even since the armistice it is recognized by all intelligent men that heavy taxation is inevitable, only it is expected that congress will as soon as possible readjust the burdens so they will bear equitably upon all. But what did and does exasperate the average taxpayer is the obligation to prepare returns under laws which take the combined skill of lawyers and expert accountants to interpret. It was bad enough at the beginning, when each did the best he could, but it became aggravating beyond endurance when there came a flood of treasury letters demanding further details, followed by re-assessments galore. Tales of the large increase in the working forces of the treasury made necessary by the tremendous influx of complicated returns made the taxpayer uneasy at the growing cost of administration. The last straw seemed to have been added when thousands of business men and corporations received the treasury letter naively asking them to waive

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their statutory limitation rights under the 1917 law because, forsooth, with all its increased force (from 3,000 to 38,000 during the war) it had not been possible to complete the task of passing upon the returns for 1917 alone! In many cases this letter was the first intimation to the taxpayer that he might yet have to reopen matters which he supposed were settled long ago.

In all these dark clouds of confusion and doubt there was one fairly bright spot on the horizon for professional accountants, public and private: the series of books on federal income-tax and excess-profits-tax procedure by Colonel Montgomery. The colonel has a record for personal war service, of which we as fellow-members of the profession are proud, but undoubtedly if he were called upon to answer the famous war-time poster query "What did YOU do during the great war?" his proper reply would be "I saved thousands of accountants, business-men and corporation officers from mental breakdown and nervous prostration." And that is no joke, either. Only recently a newspaper item recorded the incarceration in an asylum of a taxpayer insane from worry over the 1917 return.

Many a professional accountant, who can without boasting claim to be fairly skilled in the science of accounting, cheerfully acknowledges his indebtedness to Colonel Montgomery's manuals of federal-tax procedure. With the reasonable, though perhaps not certain, assurance that congress will soon repeal the fearful and wonderful excess-profits-tax measure, this review takes on the character of a valedictory. Unless the courts of the treasury department make unexpectedly radical and substantial changes in rulings and interpretations of the 1917 and 1918 laws, it is doubtful if a new edition of this volume will be needed. Barring that and with the law repealed, this 1921 volume will be a safe and standard guide for those who will be struggling for the next five years over the excess-profits assessments for 1918 to 1920.

It goes without saying that this book, unlike the *Federal-Income-Tax Procedure*, to which it is really a supplement, appeals to a limited class—the professional accountant, public and private. It is hardly necessary to describe it to that class which is already familiar with and uses it. To the average business man with a superficial knowledge of higher accounting it cannot be much more intelligible than the law itself. He may be helped to understand the principles upon which the procedure is based, but he will find it difficult to apply them to the details of his own business. It is somewhat analogous to business law. Every business man certainly should be familiar with the fundamental principles of business law, but he consults a lawyer when he enters litigation. Similarly in nine cases out of ten the business man who reads with understanding Colonel Montgomery's exposition of the excess-profits-tax law turns to the professional accountant for aid when he realizes the complexities and confusions with which he must struggle.

The section on federal capital-stock (excise) tax has been transferred to this volume from *Income-Tax Procedure* for 1921 to save

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space in the latter volume and presumably will be restored to it in future editions. In some respects this section covers points fully as obscure and difficult as in the excess-profits sections. It offers even a larger field for the skilled accountant, in that all capital employed must be considered, not merely that which the law defines as "invested capital." It is probably too much to hope that congress will take any steps to simplify this law. Being purely an excise tax it is difficult for the non-congressional mind to see why the basis upon which the tax is levied should not be simply the par value of the capital stock (amount paid in, in case of no par value) plus the surplus and borrowed capital according to the corporation's annual reports to its stockholders. We should then have a stabilized basis for the assessment of the tax, and if the operation of the law should lead to more conservatism in capitalization, so much the better. The gain would be in reducing the amount of detailed work now required in making up the three-fold return. Two-thirds of that work is obviously wasted time and effort, as the government levies the tax on the highest value of stock thus shown. But, after all, why an excise tax on corporations at all? Why not add enough to the corporation income-tax rate to produce the additional revenue raised by the excise tax?

The hearty thanks of the profession are due to Colonel Montgomery for his series of books on the excess-profits-tax procedure; nevertheless the reviewer bids what he hopes is a lasting farewell to them in this edition of 1921!

W. H. LAWTON.

NEW YORK STATE INCOME-TAX PROCEDURE, 1921, by ROBERT H. MONTGOMERY. *The Ronald Press Co.*, New York.

The description of procedure to be followed in the case of the individual income-tax law of New York is along the same lines as the author's *Federal Income-Tax Procedure*. The New York law being based on the federal it naturally follows that much of the procedure in this book is taken verbatim from the federal volume, but there are enough differences in the laws and regulations to require careful study on the part of the practitioner who prepares both federal and state returns. One might think the differences in the state law and procedure might perhaps be covered in the federal volume in the form of notes or an appendix, but considering that the federal procedure is in demand all over the country while the New York is of interest to those only within a limited area, the wisdom of a supplementary volume is apparent. Other states have and will have similar income-tax laws, and we may confidently look to enterprising members of the institute to compile similar procedures for their respective states.

Part II of the *New York Procedure* is devoted to the franchise tax on corporations doing business in the state, which is in effect a tax on their incomes. Not all corporations are subject to this tax, there being six classes which are taxed under specific sections of the law of 1909 and two classes which are exempt, but practically the tax is levied on all manufacturing and trading corporations, domestic and foreign, doing busi-

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ness in the state. What constitutes "doing business in the state" furnishes material for a long discussion (chap. XXI) from which one turns with a feeling of helpless despair over the fine-spun distinctions of the courts. Otherwise the franchise-tax law is rather a model of simplicity, the tax being based primarily on the entire net income as shown in item 27, schedule A, of the federal return. There is provision for the further return of any increases or reductions of this item made by the federal tax authorities. This relieves the state of much of the burden of auditing corporate returns, and should save the tax-payer considerable trouble and annoyance.

Accountants will particularly commend the appendices giving graphic illustrations of filing returns and making up statements reconciling state with federal computations.

W. H. LAWTON.

Edwin Harvey, Jr., and Lewis C. Fuller announce that owing to the death of John R. Sparrow, the firm name of Sparrow, Harvey & Co. has been changed to Harvey, Fuller & Co. The offices of the firm remain at 38 Park Row, New York.

Riedell & Sulzer announce the removal of their office to 1819 Broadway, New York, and the opening of a branch office in the Tradesmen's National Bank building, Oklahoma City, Oklahoma.

Archie F. Reeve, Joel E. Sammet and Leonard Bickwit announce the formation of a partnership under the firm name of Reeve, Sammet & Bickwit, with offices at 5 Beekman street, New York.

Courter & Rhyne and William A. Shenton announce the consolidation of their practices under the firm name of Courter, Rhyne & Shenton, with offices at 34 Pine street, New York.

Edmonds & Bouton, Inc., announce the removal of their New York offices to 17-27 Cedar street, and the opening of an office at 1645 La Brea avenue, Los Angeles, California.

George K. Hyslop and Dougall McCallum announce the formation of a partnership under the firm name of Hyslop & McCallum with offices at 42 Broadway, New York.

The Bankers Audit Co., of Spokane, and G. M. Gaylord & Co., of Tacoma, announce the consolidation of their practices under the name of Gaylord Bros., Inc.

The American Audit Co. announces that Charles W. Perry has been appointed resident manager of its branch office in Bellevue Court building, Philadelphia.

Beesley-Reeves & Co. announce the removal of their offices to 317 McIntyre building, Salt Lake City, Utah.