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Successful Tax Practice by Hugh C. Bickford

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SUCCESSFUL TAX PRACTICE. By Hugh C. Bickford. New York: Prentice-Hall, Inc., New York, 1950, pp. xx, 428. \$5.65.

Here is a practical book for practicing lawyers. An increasing number of attorneys find it necessary to assist clients in the preparation of returns, in answering 30-day letters, as well as in providing long range guidance in controlling the tax burden, a field all too frequently forfeited by default to accountants and others who not only organize the books and prepare the returns but sometimes also interpret the law and plan the tax effect of transactions. Though literature on taxation suffers no scarcity, there has been an urgent need for a readable sketch of the practice and procedure in tax cases. The book is recommended not only as an introduction to tax practice and as a handy reference work, but to the experienced practitioner as a source of some additional information and, perhaps, of interesting comparisons with his own experiences.

As a student text the book is also extremely valuable, supplementing the time that can be spared for practical work in a short course in taxation. As Dean Griswold of Harvard points out in the foreword it "gives essential practical instruction in clear and readable style." It is neither so extremely technical as to be valueless to students nor a mere "collection of anecdotes" which so many "practical" books tend to be. In the preface the author justifies his "clinical" or "how to do it" method with the thought that the law schools might have taught him some of these things as well as "a number of majestic rules laid down by the Supreme Court." This plea for the clinical approach seems currently stylish. But factors which limit the extent to which such an approach can feasibly be used by the law schools are lack of time, materials and money. Further, the law schools are better able to teach some principles that would be difficult to learn in practice than they are to teach the so-called tricks of the trade. Griswold states in his taxation casebook that "The law schools should be the first to recognize that the last place to learn the ins and outs of procedure is in the law schools."¹ Certainly every student of taxation should be given some practice in forms and returns, in use of the services and Internal Revenue Bulletins, and a speaking acquaintance with questions of procedure and jurisdiction in deficiency and refund cases. What he misses in class the student can spend pleasant hours learning by reading this treatise.

The organization of the book is unusual. The first seven chapters, consisting of 91 pages, deal with "how to find the facts and prove them." The failure to get to the subject of procedure in the usual sense until the middle of the book, the author explains in his preface by the fact that ninety per cent of the cases handled in tax practice are factual cases and that factual analysis is a neglected phase of practice. Practical pointers as to proof of facts are afforded by actual experiences and examples on such issues as the reasonableness of officers compensation and depreciation. Three chapters are given to proof of value. The suggestions are helpful as a primer to the neophyte, but unfortunately treatment of this complicated subject and the bibliographical references seem too incomplete to be of much value as a reference work.

Also prior to arriving at the central theme of the book is another preliminary

¹GRISWOLD, CASES AND MATERIALS ON FEDERAL TAXATION (3rd ed., 1950) p. 66.

topic concerning the finding of the law and applying it to the facts. Chapter 7, entitled "the working tools of tax practice" treats the source materials of tax practice, including specific recommendations for a library. The author recommends Prentice-Hall services and publications as part of a minimum tax library and gives his reasons for his selection. Failure to give space to rival publications, such as those of Commerce Clearing House, seems fair competition. Chapter 8 is a rather lengthy explanation of the use of Prentice-Hall services, containing valuable and sometimes overlooked, though somewhat obvious, suggestions for systematic recording of results of research. Next follows a chapter on how to write tax opinions and briefs. Here, too, are obvious but desirable pointers such as the fact that ability to translate technical statutory jargon into plain English keeps clients coming for opinion work. Chapter 10 contains a helpful discussion of guiding principles in controlling the tax burden, as well as pitfalls to be avoided in planning for tax savings. The great need to take advantage of the few remaining ways of reducing one's total tax burden, such as use of approved pension plans of employers, is brought home to the reader. Actually not too much can be said in this connection, since the history of federal taxation has been largely the invention of clever tax saving schemes followed by statutory closing the door on one scheme after another. The lawyer is cautioned as to areas wherein to avoid going too far in saving tax dollars, as well as made keenly cognizant of the practical necessity of going as far as the law legitimately allows.

Chapter 11 begins the main theme of the book. Here in successive chapters the author describes the preparation of returns, the detailed organization of the Bureau of Internal Revenue, the auditing process to which the return is subjected and negotiations with agents, the protest and conference procedure, appeals to the Technical Staff, and, after introducing the reader to the courts of tax litigation, concludes with chapters on litigation in the Tax Court, the District Courts and the Court of Claims.

A chart of the Bureau's organization, sample specimens of Bureau forms and letters, suggested forms for protest and petition give a more complete picture by way of illustration throughout the text. The appendix contains the Rules of Practice before the Tax Court. For one compelled to learn about the organization and function of the Bureau vicariously, the chapters on Bureau organization and the audit process are probably the most understandable and adequate description available. Throughout the book completeness is sacrificed to readability. For example, in giving some reasons governing exercise of the taxpayer's choice to sue in the District Court instead of the Tax Court, the author names seven valid reasons but does not mention either the interest or the limitations of time factors.

The book makes no pretension to be a complete reference work. Rather, its primary function is to serve as an elementary exposition of fundamental tax procedures, enlivened by the advice drawn from the author's extensive experience.

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