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New York State Income and Franchise Taxes (Book Review)

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have at least a reading knowledge of the present status and significance of accounting principles and auditing standards. No book better summarizes for the attorney, as well as for the accountant, the interpretation of business in its modern setting. Numerous situations involving principles of accounting and auditing find their way into the courtroom and these principles tend to become principles of law. Many problems arising out of the present war effort will require solutions by the Government in the light of recent developments in accounting and auditing thought. Undoubtedly attorneys in the coming years will have a closer contact with these problems and they should bring to their work a better understanding of modern business from the accountant's and auditor's point of view. They will undoubtedly find in Montgomery's Sixth Edition of *Auditing, Theory and Practice*, the material they need for an intelligent understanding of modern business.

BENJAMIN HARROW.*

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NEW YORK STATE INCOME AND FRANCHISE TAXES. By Harrow and Sack.
New York: Alexander Publishing Co., Inc., 862 pp., \$10.

In their preface to *New York State Income and Franchise Taxes*, the authors have stated their object to furnish taxpayers and their advisers with a guide to a clearer understanding of the law and its administration. This they have accomplished to a very marked degree by drawing on their own practical experiences without stint. Their product is a text supplying not only the fundamentals, but also the technical aspects of New York State taxation, and filling a long sought need, particularly on the part of tax practitioners.

In arrangement, franchise taxes on corporations are considered in Part One and personal income tax on individuals in Part Two. Part Three is devoted to the text of law and regulations, followed by an appendix containing a table of the cited cases.

The volume is replete with excellent chapters on the various subjects that are covered. Chapter 6, dealing with conditions *Where Federal Net Income Is Not True Net Income*, is exceptionally enlightening. So is Chapter 11 on *Allocation and Segregation*, and Chapter 21, dealing with the *Tax on Banks and Financial Corporations*. The discussion in Chapter 11 of the Tax Commission's practice under subdivision 7(a) of Section 214 dealing with its broad powers equitably to adjust the tax on the basis of corporate activity is one that should be of interest to corporations conducting part of their business outside of New York, and may prove to be rather novel to them and their representatives. To the same effect is the discussion in connection with the application for equitable adjustment of the tax under subdivision 7(a) in Chapter 13.

In the absence of regulations dealing with franchise taxes and the limited field covered by the few rulings that have been published from time to time

during the many years of administration of these taxes, Part One opens up to the reader the vast extent of the authors' contact with New York tax administration.

Part Two, dealing with personal income taxes, has the advantage of dealing with a subject that had been fairly well covered by regulations and rulings which supplement the administration of the law. The chapters on estates and trusts, on taxation of nonresidents, and on capital gains and losses are excellent and thorough. The chapter on exclusions from gross income contains a helpful analysis of the exempt interest provisions. Likewise, with the chapter on interest, which, however, might have embraced a discussion of interest on bonds in default purchased flat.

In covering the broad field, many important subjects are disposed of in brief and succinct paragraphs. Witness the discussion on the treatment of cancellation of debts at the close of Chapter 30, and the classification of brokers, traders, dealers and specialists in Chapter 33. The technical aspects, dealing with the basis of property distributed in kind to a partner, are neatly disposed of, in a few words, in Chapter 39.

A practical aid is also furnished in the table of differences between the state and federal laws dealing with personal incomes. A phase in this analysis which is open to question relates to the nature of distributions out of income earned prior to January 1, 1919. Both at this point, as well as in Chapter 32, the position is taken that such dividends are capital, on the authority of Article 78 of Personal Income Tax Regulations 40. This article, however, deals with the general question of income accruing prior to January 1, 1919 and should be considered in conjunction with Article 61 relating to dividends. Article 61 provides that dividends are income in the year in which payable, regardless of when the earnings or profits out of which they were paid were accumulated.

The volume as a whole could probably be as effective without the inclusion of Part Three which contains the text of the law and regulations and could possibly do without the forms which are scattered through Parts One and Two since these are generally available and represent no original contribution.

Taxpayers and their representatives should be very grateful for the years of effort of two leading tax practitioners who have given of their knowledge and experience as attorneys and accountants to produce this publication.

BENJAMIN GRUND.*

IN AND OUT OF COURT. By Francis X. Busch, Esq. Chicago: De Paul University Press, 1942, pp. 306.

Current activities of experienced practitioners in the fields of law and of medicine have caused a flow of memoirs from the presses of various and sundry book publishing companies. This is the latest in the legal series.

The author was admitted to the bar of the State of Illinois in 1901; after having spent some years as a court reporter. Since commencing practice, he

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