

Selected Cases on the Law of Taxation (Book Review)

Benjamin Harrow

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have included in this guide. In the chapter on the management of the estate or perhaps in the chapter on distribution, the author might have added a paragraph on the requirements of transfer agents in transferring securities, especially the affidavit on death and domicile, the latter illustrated by an appropriate form.

It is difficult to single out any one chapter for special commendation. That would depend upon one's special interest. This reviewer found the chapter on estate taxes particularly stimulating, especially the complete illustration of the actual tax returns, including the calculation for the determination of good will, the valuation of annuities, and the valuation of a charitable remainder.

The legal community will undoubtedly be grateful to Mr. Harris for his presentation of Estate Administration and Accounting. The book is more than just a guide.

BENJAMIN HARROW.*

SELECTED CASES ON THE LAW OF TAXATION. By Henry Röttschaefer. Chicago: Callaghan & Co., 1940, pp. xxxvii, 757.

It is not so long ago that the principles of the law of taxation were taught as a branch of conflict of laws. The importance of this field of law can therefore be gauged from the fact that, this year, three case books on taxation are offered to law students, two of them being third and revised editions. The multiplicity of tax laws accounts for frequent and necessary revisions. So too, does the changed economic outlook, with concomitant effects on courts in their points of view with respect to what the law is on issues once considered settled. The case of *Collector v. Day*, 11 Wall. 113 (U. S. 1870), which held that the federal sovereignty may not tax salaries of state employees, is no longer law. *Curry v. McCaless*, 307 U. S. 357 (1939), denotes the beginning of a swing away from the attempt to limit double taxation of intangibles. These are random instances of new trends, and in the field of estate taxation the law has even yet not been stabilized.

In many respects, this case book is eminently satisfactory as a basis for integrating the principles of the law of taxation. In the first place, the presentation follows a plan that this reviewer has used for many years in his courses on the general law of taxation. The first two chapters deal with the power to tax and the purposes for which taxes may be levied. The Social Security Act and state unemployment insurance tax laws are recent enactments affecting fundamental principles of taxation, and the cases validating these laws are prominently included in these chapters. *United States v. Butler*, 297 U. S. 1 (1935), holding the Agricultural Adjustment Act unconstitutional, is given only minor mention in a footnote, although it deserves greater prominence.

Chapter 3 considers the problem of classification and uniformity, two basic principles of taxation, and Chapter 4 deals with the principle of exemptions. The fundamental principles presented in the first four chapters form the background for an understanding of the problems of jurisdiction to tax considered

* Professor of Law, St. John's University School of Law.

in Chapter V. Thereafter, the book is concerned with specific taxes, the property tax, inheritance, estate and gift taxes, the income tax, and franchise and excise taxes. In other case books, the franchise tax has not received the special treatment it deserves. States lean heavily on this type of tax and the extent to which states may tax foreign corporations is still in a condition of uncertainty. In this chapter should properly belong the case of *Hans Rees' Sons v. State of North Carolina*, 283 U. S. 123 (1930), and the notes following, which the author includes in the Income Tax chapter. The case deals with the problem of apportioning the income of a foreign corporation engaged in interstate commerce to determine what portion of its income should be considered by a state as representing intra-state business for the purpose of assessing a franchise tax.

It is evident from an examination of the book that the law of taxation has been in its greatest period of development in the past five years. Most of the cases are recent decisions of the Supreme Court. The cases are well selected, each case being adequately amplified by notes indicating collateral issues and earlier decisions. In the chapter on jurisdiction, the author relegates *Blodgett v. Silverman*, 277 U. S. 1 (1927), to a note. This reviewer has considered the case important in the light it throws on the question of the nature of intangible property. On the other hand, *Green v. Frazier*, 253 U. S. 233 (1920), is quite properly given a prominent place as a leading case, although other case books mention the case only in footnotes. The state of North Dakota attempted a program of far-reaching economic significance involving the raising of revenue by taxation. The Supreme Court gave its seal of approval to the state's experimentation in elementary planned economy on the ground that the legislature and the highest state court considered this to be a public purpose.

It is rather surprising that the author included only two main cases on the gift tax. In spite of the paucity of gift tax decisions, the student would wish to be somewhat more fully apprised of some of the issues taxpayers are raising under this tax. The author relegates to a note the case of *Hesslein v. Hoey*, 91 F. (2d) 954, cert. denied, 302 U. S. 765 (1937), on what constitutes a gift, and only a note on the issue of valuation of gifts.

This edition is a vast improvement over the earlier attempts to put together material for a course on taxation. It should prove to be a pattern for subsequent revisions made necessary periodically by new decisions. The book will unquestionably be used widely in the law schools.

BENJAMIN HARROW.*

CASES ON FEDERAL JURISDICTION AND PROCEDURE. By Armistead Dobie and Mason Ladd. St. Paul: West Publishing Co., 1940, pp. lxiv, 1091.

United States Circuit Court of Appeals Judge Armistead M. Dobie, with the aid of Mason Ladd, Dean of the College of Law of the State University of Iowa, has again written an invaluable treatise on Federal Jurisdiction and Procedure.

In 1935, when Dean of the University of Virginia Law School, Judge

* Professor of Law, St. John's University School of Law.