

# Federal Income Tax Handbook, 1938-1939 (Book Note)

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## BOOK NOTES

FEDERAL INCOME TAX HANDBOOK, 1938-1939. By Robert H. Montgomery. New York: Ronald Press Co., 1938, pp. xv, 1260.

Mr. Montgomery's Income Tax Handbook was doubly welcome this year. It was the first analysis of the new 1938 Revenue Act by a distinguished authority on legal and accounting aspects of the tax law, and it came after the lapse of a year, no handbook having been published in 1937. Tax practitioners had formed the habit of looking forward to Mr. Montgomery's annual contribution to tax lore.

The handbook is encyclopedic in scope. It presents the present status of the Federal Income Tax Law in all its phases, as this law has been developed, changed, modified, distorted, and distended by tax rulings, Board of Tax Appeals decisions, and Court cases. There is, in addition, a chapter on Unjust Enrichment, one on the Excess-Profits Levy on Navy Contracts, and a chapter on Stamp Taxes on Original Issue and Transfer of Stocks and Bonds.

This writer has had occasion to take issue with the practice of the author of injecting a personal and political note in what should be wholly a professional and scholarly presentation. In the 1938-1939 Edition of the Handbook, the author says in his preface that his dissatisfaction with tax matters is "passionate" and that the preface is the only personal part of his books. It would appear that his passionate dissatisfaction does not prevent him from injecting a personal note throughout the book. For example, in discussing earned income credit on page 56, he says, "In 'restoring' the credit, Congress handed out one of its usual 'lemons'."

Lest the reader feel that the preface sets the tone of the book, one must hasten to add that the author can on occasion be fair to the Treasury Department. For example, in discussing the taxability of forgiveness of indebtedness as income, he says, "The confusion surrounding the taxability of transactions of this kind arises from the difficulty of proving to the satisfaction of the courts that the transaction was gratuitous \* \* \* and the courts will ordinarily seek for and find a consideration and thus convert what is called a gift into a taxable transaction. *This is as it should be.* If the cancellation of a debt is actually for consideration, it should not be permitted to escape taxation. \* \* \*"

Tax decisions come so fast that it is, of course, advisable for the reader to run all cases down to the immediate present. For example, the author questions the decision of *Lyeth v. Hoey*,<sup>2</sup> which held that amounts paid to avoid the contest of a will were taxable income. Both the author and reader will be gratified to learn that this decision was recently reversed by the Supreme Court of the United States.<sup>3</sup>

*The Income Tax Handbook* has become an institution in the tax world and it is hoped that the coming editions will be annual ones.

BENJAMIN HARROW.\*

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<sup>1</sup>96 F. (2d) 141 (C. C. A. 2d, 1938).

<sup>2</sup>— U. S. —, 59 Sup. Ct. 155 (1939).

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