

Estate Administration and Accounting (Book Review)

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ESTATE ADMINISTRATION AND ACCOUNTING. By Chester J. Dodge. Brooklyn: Standard Text Press, 1932, pp. xiii, 453.

The Revenue Act of 1932 introduced two special features, a super estate tax and a gift tax. The purpose of the additional federal estate tax is simply to increase revenues from death taxes. The purpose of the gift tax is more than the desire to increase revenue; it is meant primarily to aid in an effectual administration of the estate tax law. Improvements in estate administration have long been cherished, and one of the most important advances was made under the Amended New York Laws of 1930, at which time new methods of distributing property were introduced, and the state transfer and inheritance tax system was discarded in favor of an estate tax modeled after the Federal Estate Tax Law. In addition to these legislative changes affecting the administration of estates, courts have been concerned with the clarification of the relation between *inter vivos* transfers and estate taxes and administration. Lawyers who have been following recent trends in the development of estate taxation and administration know that the time was ripe for a simple but thorough presentation of the present status of estate administration.

Few attempts have been made in the past to state simply the principles of the law of estate administration and accounting. Lawyers have had available such works as Heaton's *The Procedure and Law of Surrogate's Court*, and Jessup's *The Law and Practise in the Surrogate's Court*, but whenever they were confronted with a practical problem, they sought help and guidance in the office of the surrogate. The legal profession has therefore been particularly fortunate in having had placed before it a presentation of estate administration that is not only simple and thorough but one that is authoritative as well. Lawyers will welcome Professor Dodge's book on *Estate Administration and Accounting*, not only because it is written with the ability of one intimately connected with the Surrogate's Court, but for the further reason that the material has been classified for effective presentation to students of the subject in a classroom. The reader senses the practical point of view of Professor Dodge in the very first chapter, devoted to a discussion of Estate Terms. The author is not content with a definition of terms which would represent merely a generalization, unsuited for presentation to students because unrelated to practical situations. Instead of generalizations the author actually discusses the terms in the light of the situations that arise in the practice of an attorney.

In the chapter on Intestacy, the author discusses the subject of Distribution Under the Old and New Laws, so that the practitioner is enabled to understand just how the law has been changed and just how courts have interpreted the changes. As another instance of the clarity of presentation of the subject, attention might be directed to the chapter on Testacy which contains the necessary court steps upon probate of a will.

One of the best chapters in the book contains a full discussion of Statutory Limitations on provisions in a will. Here the reader will learn the important effect of a codicil made subsequent to August 31, 1930; the right of election of the surviving spouse under Section 18 of the Decedents Estate Law; limitations with respect to Bequests to Charity under Section 17 of the Decedents Estate

Law, especially the recent adjudications in *In re Seymour*,¹ and *In re Apple*,² which resulted in the recent amendments to Section 17. Because of the thorough treatment of the subject of Bequests to Charity, the writer would have welcomed an equally detailed treatment of the testamentary limitations due to the suspension of alienation and unlawful accumulations.

In the discussion of assets of the estate, the author has made a most able presentation of the subject of Powers of Appointment, a subject usually treated scantily because writers have, as a rule, only a theoretical familiarity with the subject.

The chapter on Sales and Investments is of special interest to executors and trustees because of the depreciated value of estates today, and the duty of executors and trustees to avoid losses and surcharges.

The Payment of Legacies and Distributive Shares is treated in a separate chapter. Here the reader will find a thorough and practical treatment of all types of legacies, the effect of legacies in lieu of dower, the troublesome question of interest on legacies and trust funds, *Cy Pres* powers, payments in kind, ademption and abatement, and gifts. The discussion of the effect of the depression on residues is quite timely.

No more difficult problem confronts executors than the allocation of items as principal or income. In the case of stock dividends, courts have been undecided as to whether such dividends should be considered as income, principal, or both. Section 17A of the Personal Property Law, which provides for the accumulation of stock dividends as principal, applies only where the will was executed after May 17, 1926. Special problems of income affect Testamentary Trusts and Annuities, and also the apportionment of income earned during the period of administration.

One of the most valuable chapters in the book is on taxes. The author explains the working of the new New York Estate Tax, showing the application of exemptions and calculations, proration of taxes among those entitled to receive the property, the insurance exemptions, the application of the 1932 Federal Estate Tax rates, etc.

The Preparation of the Account, the Calculation of Commissions and the Court Procedure in a Voluntary Accounting make up the last three chapters in the book. In addition to an exposition of the law that in clarity and conciseness surpasses anything heretofore presented on the subject of Estate Accounting, there are a workable Index and a Table of New York cases that enable the reader to run down the leading cases to their authoritative source. The book will be of interest to students of the subject for use in college courses, as well as to active practitioners. Mention should also be made of the form and printing of the book. Paragraph titles are set forth conveniently in heavy type. The quality of the paper and the size of the print make the book easily readable.

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¹ 239 N. Y. 259, 145 N. E. 739 (1924).

² 141 Misc. 380, 252 N. Y. Supp. 580 (1931).