1930 Supplement to Federal Income Taxation (Book Review)

Benjamin Harrow
Volume Two deals with the "commencement, abatement, continuance and discontinuance of actions." It covers the statute of limitations, parties, the preliminaries to a suit, the forms and service of process, appearance, abatement, continuance and discontinuance.

Under the chapter, "Prerequisites to Service in Particular Cases," are treated certain matters of substantive law, such as the necessity for preliminary demand, tender or notice, which are quite appropriate to a treatise on practice.

One of the difficulties of the lawyer has been that he has had to examine too many books to learn to manage his case. For example, if desiring to sue the City of New York on a claim for property damage he needed to examine the Charter (Section 261) to learn the nature of the preliminary notice he was compelled to serve; if desiring to sue for personal injuries he was compelled to serve a different notice in a different manner, necessitating the examination of Laws of 1886, Ch. 572, to ascertain the proper procedure. These matters are fully explained in the second book.

Each volume is well indexed and, as a well-known teacher of the law is reported as once saying, "Show me the index and I will appraise the value of the book." The forms are numerous and helpful. The notes show from what reported case each form is adopted. This is of advantage especially to the young practitioner, since from an examination of the complete record of the cause, many suggestions as to the management of his own case may result.

CHARLES E. RUSSELL.

New York City.

1930 SUPPLEMENT TO FEDERAL INCOME TAXATION. By Dr. Joseph J. Klein.
New York: John Wiley & Sons, 1929, pp. 311.

The advent of any work on income taxation is eagerly awaited by an ever-growing group of lawyers, accountants, and tax specialists. The reception awarded Dr. Klein's major work on the subject a year ago gave evidence of the need of a scholarly and authoritative treatment of the subject which this book supplied. After a decade or so of fumbling on the part of administrative officials, and even of the courts, with the problems let loose by the introduction of income taxation as a part of the regular fiscal policy of the government, definite principles of law are now shaping themselves into well-defined precedents.

Some of the basic principles of law were concerned with the problem of the nature of income. The Treasury Department and the courts were repeatedly asked to determine what is income and when is it income for the purpose of taxation. There is some evidence today of an ultimate satisfactory solution of these questions. The solution has been materially aided by the tendency of courts to accept sound accounting principles in relation to these problems. It is not surprising, therefore, that accountants have been in the vanguard of progress in the development of the law of taxation.

One of the first outstanding writers on the subject among the accountants was Robert H. Montgomery, whose annual commentaries on the Revenue Acts were noteworthy. Others, of course, wrote spasmodically in the various periodicals that concerned themselves with the subject of taxation. Those who were
at all familiar with Dr. Klein's work as teacher and accountant felt that sooner
or later he would crystallize his own thoughts on the subject of income taxation
and make an outstanding contribution on the subject. The result was the
meritorious volume published in 1929, encyclopedic in scope, scholarly in method
and achievement, and unquestionably destined to become part of any good
income tax library.\footnote{See review of Federal Income Taxation in (1930) 4 St. John's L. Rev. 147.}

The present supplement to the basic text is an attempt to bring down to
date the daily contribution to tax lore of the Federal Courts, the Board of Tax
Appeals, and the Treasury Department. Courts have a way of modifying the
law almost every day. Not long ago the Supreme Court decided that income
from royalties derived from patents and copyrights could not be taxed by the
state inasmuch as this would in effect be taxing an instrumentality of the Fed-
More recently the Court held that the profit from the sale
of municipal bonds could not be taxed by the Federal Government.\footnote{Willcutts v. Bunn, 35 F. (2nd) 29 (C. C. A. 8th, 1929), aff'g 29 F. (2nd) 132 (D. C. Minn., 1928).}
In the
much discussed Macallen case\footnote{Macallen v. Massachusetts, 279 U. S. 620, 49 Sup. Ct. Rep. 432 (1929); see (1930) 4 St. John's L. Rev. 322.} it held that a tax on business corporations mea-
sured by income is, in substance, a tax on income and cannot be assessed against
such portion of the income of the corporation which is received from obligations
of the United States bonds. In Farmer's Loan & Trust Company v. The State
of Minnesota\footnote{280 U. S. 204, 50 Sup. Ct. Rep. 98 (1930); see (1930) 4 St. John's L. Rev. 322.} the Court flatly overruled Blackstone v. Miller\footnote{188 U. S. 189, 23 Sup. Ct. Rep. 277 (1903).}
and held that bonds and certificates of a New York decedent had acquired a permanent \textit{situs}
for taxation at the place of domicile and their testamentary transfer was prop-
erly taxable in New York, but not in Minnesota. This is only part of the vast
material that has been organized and classified in the Supplement for efficient
use on the part of those interested in income tax problems. The effect is to
make the basic text a more practical work of reference and it is difficult to
see how the author can refrain from making the 1930 supplement the forerunner
of an annual supplement. The writer feels that the reception given to the
major work is an indication to the author that he is under the obligation to
continue the issuance of an annual supplement.

The topics of the Supplement are arranged in the same order as they appear
in the basic text and the unique method of indicing each paragraph is, of
course, continued. Appendix F contains the bibliography for each chapter in
the supplement, from which it would appear that the \textit{National Income Tax}
\textit{Magazine} offers a most fertile contribution to the best thought on the subject
of income taxation. The index of Board of Tax Appeals Decisions, showing
separately, decisions not accepted by the Treasury Department is especially
valuable, as is also the table of Court Cases. For the rest, one can but repeat
splendid words of appreciation of Dr. Klein's efforts in producing a worthy
work and express a hope that he will feel encouraged to continue the task of
producing an annual supplement.\footnote{See (1930) 4 St. John's L. Rev. 147.}

\begin{center}
\textbf{BENJAMIN HARROW.}
\end{center}