

BOOK REVIEW

FEDERAL INCOME TAXATION OF ESTATES AND BENEFICIARIES. By *M. Carr Ferguson, James G. Freeland & Richard B. Stephens*. Boston: Little, Brown and Company, 1970. Pp. 749. 1971 Supplement. Pp. 67.

As its length indicates, *Federal Income Taxation of Estates and Beneficiaries* is a technical, in-depth treatment of a very narrow area of tax law. Fortunately, the authors chose to ignore taxation of trusts and trust beneficiaries, and to deal exclusively with the taxation of estates. Thus, they avoided the very thorny tax problems created by the Tax Reform Act of 1969, such as the trust throwback rules and the problems of charitable remainder trusts. The authors have, furthermore, narrowed their scope to include only *income* taxation, and have not attempted to deal with estate or inheritance taxes paid by estates, thus avoiding yet another set of problems. As a result, the Tax Reform Act left the authors' work virtually unscathed.

The text, hardbound, is to be supplemented annually—not by pocket part, but by separate pamphlet. This is unfortunate, since the text and supplement can become easily separated. Ample footnotes will be of assistance to many tax practitioners seeking authority. Judges and other law interpreters will find the discussions of theory and purpose helpful as well. Excellent tables of cases, regulations and statutory materials, as well as a detailed subject index, greatly enhance the value of the text.

The text is current to September 1, 1968. The 1971 Supplement is in large print and consists of only 67 pages, indicating that this area of tax law is evolving slowly and that this text will be of value for many years to come—a factor for those weary of purchasing texts virtually out of date by press time.

Turning to the text itself, the authors have chosen to discuss their subject chronologically through the life of an estate. This is accomplished in nine chapters, beginning with Chapter 1, "The Income Tax Meaning of Estates," and ending with Chapter 9, "The Executor's Personal Liability for Federal Taxes of the Decedent and his Estate," which is sure to chill the marrow of even the most intrepid lawyer-executor, and send him checking both his insurance and procedures. As for his procedures, Messrs. Ferguson, Freeland and Stephens render able assistance with several suggestions on how to minimize, shift

or terminate the financial threat to the fiduciary. These include a request for prompt assessment under IRC section 6501(d), written application for discharge under IRC section 2204, and indemnification by distributees. The more experienced executor will find nothing new here, but the less experienced should find the suggestions enlightening.

In between the first and last chapters the authors discuss the effect of local law on estate cases (Chapter 2), the tax liability for the year of death (Chapter 3), and income in respect of a decedent (Chapter 4). Chapter 4 also deals admirably with the "gray area" when making the difficult and often important transition from income of a decedent to income of the estate. Separate chapters are devoted to distributable net income (Chapter 5) and the charitable deduction (Chapter 6).

The longest chapter in the book is Chapter 7, entitled "Distributions," which deals with the transition from income of the estate to income of the distributees. The authors have endeavored in this chapter to simplify the task of determining that portion of a distribution which is taxable and that portion which is not. In general, they have succeeded. Part of their success is due to the authors' election to use pictorial "slang"—that is, "first tier" distributions—as a substitute for the incredibly dry, mind-twisting verbiage of the Code. Footnotes help to tie the authors' "slang" translation to the Code sections and regulations involved, and permit the reader to check the authors' interpretation. Sensible and realistic examples punctuate the explanation, as do occasional references to legislative history. The authors are quite successful in their effort to light the path through the many steps toward determining each beneficiary's taxable portion of a distribution.

The next to the last chapter in the book discusses estate termination (Chapter 8). This is a short, but important chapter, designed to aid in making those all important—that is, tax-saving—decisions on when and how to make the final distribution.

The text is quite well written, incredibly so for a law text and even more incredibly, for a *tax* law text. In short, it is readable. In this regard, it is reminiscent of Bittker & Eustice, *Federal Income Taxation of Corporations and Shareholders*, which, in the reviewer's opinion, is as readable a text on tax law as there is.

On balance, this one volume work will be a welcome and valuable addition to the libraries of tax practitioners, judges, government employees, trust officers and others who work with taxation of estates.

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