INDEX—FEDERAL INCOME AND ESTATE TAXATION

ADMINISTRATION OF REVENUE LAWS

proportion of controverted cases to total income tax returns, 336; overcentralization of, before 1938, 337; volume of cases pending before Board of Tax Appeals (hereinafter "BTA"), 337-8; length of delays in tax cases, 338; proportion of cases abandoned by Commissioner, 339; decentralization program for, described, 339-40; improvements in, achieved by decentralization, 340-2; remaining difficulties in, 342-3; new protest procedure proposed for, 343-4, criticisms of, 344-5, 359-60; proposal for decentralizing hearings of BTA, 346; proposal to vest exclusive jurisdiction in BTA, 346-8; criticisms of, 348, 360; proposal to require petitioners to post bond with BTA, 348-9, 361; uncertain course of decision in tax litigation, 350-1; reduction of controversies in, by amendment to revenue laws, 357-31; past refusal to issue declaratory rulings in, 354-5; changed by 1938 Amendment, 354; policies relating to closing agreements in, under 1938 Amendment, 354-7; proposal to issue broad declaratory rulings in, 357-8.

AMERICAN INSTITUTE OF PUBLIC ACCOUNTANTS

Committee of, on Federal Taxation: repeal of excess profits and capital stock taxes urged by, 398.

AVOIDANCE AND EVASION

under income tax: effect on, of non-taxation of capital gains, 203; tax exempt securities as a means of, 223; perennial nature of problem of, 243-4; defined, 244-5; paucity of cases involving, before 1930, explained, 245-6; effect of statutory particularization on, 247; attempted by means of: gifts of property, 248-9, assignments of income, 249-51, revocable trusts, 251, joint and separate returns of spouses, 253, irrevocable trusts for grantor's benefit, 253-4, tax-free exchanges, 254-5, accumulation of corporate earnings, 255-6, 268, installment sales, 256-7, artificial losses, 257-8, irrevocable term trusts, 258-60; community property laws as aiding, 254, 264; application of Justice Holmes' "line theory" to, 260-1; classification of cases of, 262-3; future general trends in, 264-5; under the estate tax: general nature of problem, 309-10, 331; by gifts in contemplation of death, 311-13, 331, 332; by transfers taking effect upon death, 313-16; by revocable transfers, 316-19, 331, 332; by creating successive estates and powers of appointment, 321-3; by insurance where insured parts with legal incidents of ownership, 323-5; prevention of, by retroactive taxes on transfers inter vivos, 325-8; judicial attitudes toward, 310, 328-30; gift tax as means of diminishing, 332-3; proposal to integrate gift and estate taxes to prevent, 333-5.

Becker v. St. Louis Union Trust Co., 316, 318
Binney v. Long, 327, 328
Blair v. Comm'r, 250

BOARD OF TAX APPEALS

see ADMINISTRATION OF REVENUE LAWS.

BORAH, WILLIAM E.
quoted, on consolidated returns, 307-8.

Brazil v. Hubbard, 267

Bulm v. Wisconsin, 250

BUREAU OF INTERNAL REVENUE

see ADMINISTRATION OF REVENUE LAWS.

Burnett v. Leininger, 251

Burnett v. Wells, 247, 248, 253, 254, 262

CANADA

taxation of capital gains in, 209; excess profits tax in, during present war, 296.

CAPITAL GAINS TAXATION

long-continued world-wide controversy as to, 1941; as affected by "expenditure" and "accrual" theories of income taxation, 194-5; three groups of opponents of, 196, development of federal policy as to, from 1913 to 1934, 196-7, 211-12, from 1934 to 1938, 198, 212-13, since 1938, 198-9, 213; inequities in, caused by other economic factors, 199-200, 213-14; effect of economic cycle on yield of, 201-2, 216; effect of, to discourage retention of corporate profits, 202-3; effect of exemption of, on tax evasion, 203; practical hardships in, 203-4, 214-16; effect of, on security price levels, 204-5; not deterrent to investment because of low rate structure, 205-6; suggestions for liberalizing, 207; under early U. S. excise taxes, 209; under Corporate Excise Tax of 1909, 209-11; under the 16th Amendment, 211; difficulties of valuation in, 214-15; need for numerous exceptions in, 215-16; deduction of corporate capital losses against, under 1934 Act, 273, under 1939 Act, 279.

CAPITAL STOCK TAX

under 1918-24 Acts, 270; under NIRA, 272, 296; under 1934 Act, 273; under 1935 Act, 275; under 1936 Act, 276; under 1938 Act, 278; under 1939 Act, 279; yields of, and excess profits tax since 1934, 277 (table); difficulties of valuation under, 297-8; criticisms of, 292, 298.

Chase National Bank v. U. S., 324

Collector v. Day, 217, 235

CONSOLIDATED RETURNS


CONSTITUTIONAL LAW

validity of tax on capital gains, 208, 210, 211; validity of tax on state and local securities under, Pollock case, 232, 236, under recent decisions, 233, 237; effect of 16th Amendment on taxing income from government securities, 233, 238; federal government's power to waive tax immunity, 237-8; validity of proposals: to tax income from tax exempt securities by excise tax, 238-9, to include exempt income in measuring income tax, 239-42; proposals to permit taxing exempt income by Constitutional amendment or interstate compact, 242; validity of tax on: assignor of income, 249, settlor of revocable trust, 251, settlor of irrevocable trust, 253, accumulated corporate earnings, 256.
invalidity of tax on combined income of spouses, 252-3; validity of estate tax on dower and curtesy, 311; invalidity of conclusive presumption concerning gifts in contemplation of death, 312-13, 332; "penumbral theory" supporting taxes to prevent avoidance, 312-13, 315-16, 318; validity of estate tax on transfers taking effect on death, 315-16, on revocable transfers, 317-18, on survivorship in joint estates, 319; validity of revocative taxes on transfers inter vivos, 325-8; validity of review of tax cases in proposed Court of Tax Appeals, 351-2.


corrid. v. Long, 327, 328

corliss v. Bowrtr, 248, 251, 262

Corporate Income Taxes

in Civil War period, 266-7; under 1909 Act, 267; under 1913 Act, 267-8; under 1916 and 1917 Acts, 268; under 1918 Act, 268-9; under 1921-2 Acts, 271-2; under 1922 Act, 272; under 1934 Act, 273-4; under 1935 Act, 274-5; under 1936 Act, 275-7; under 1938 Act, 277-8; under 1939 Act, 279-8; under all above acts since 1909, 280 (table); significance of increasing resort to, 281; justification of, on benefit theory, 282-4; difficulty in applying ability-to-pay theory to, 282; application of progressive principle to, 274, 283-4; use of cost-factor tax as supplement to, 284-5; use of, as supplement to personal income taxes, 285-8, by taxation at source, 285, by undistributed profits tax, 286-8; as affecting corporate structure, 288, monopoly profits, 289, business financing, 289-90, employment, 290. See Capital Stock Tax, Consolidated Returns, Excess Profits Tax, Interstate Income Taxation, Personal Holding Corporations, Undistributed Profits Tax.

Corporate Reorganizations

exchanges in, as means of income tax avoidance, 254-5; provisions exempting exchanges in, under 1918 Act, 269, under 1921 Act, 271.

Coulson, James

quoted, on consolidated returns, 308.

Declaratory Administrative Rulings see Administration of Revenue Law.

Douglas v. Willits, 254, 261

Duport v. Committe, 247

Easter v. Macomber, 248, 255

Estate Tax

problem of avoidance under, generally, 259-101; imposed on: dower and curtesy, 310-11, gifts in contemplation of death, 311-15, transfers taking effect on death, 315-16, revocable transfers, 316-19, survivorship in joint estates, 319-20, general powers of appointment, 320-3, insurance proceeds, 323-5; judicial attitudes toward, 310, 328-30. See Avoidance.

Exflation

See Avoidance.

Excess Profits Tax

under 1917 Act, 269-70, 292; under 1918 Act, 270, 292; under NIRA, 272, 296; under 1934 Act, 273; under 1935 Act, 275; under 1936 Act, 276; under 1938 Act, 278; under 1939 Act, 279; present, criticized, 291-2, 295; in Great Britain during World War, 292-3; yield of U.S. war-time, 293; effectiveness of high, in war times, 294-5; peace-time, in Ireland, Japan, Colombia, Mexico, 296; yields of, and capital stock tax since 1934, 298 (table); administrative difficulties in, 297-8; as means of recovering monopoly profits, 289, 299, of stabilizing business cycles, 299; difficulty in fixing value base for, 300.

Federal Tax System

development of, prior to Civil War, 162-3, during and after Civil War, 163, prior to World War, 163-4, during World War, 164, during 1920's, 165, during 1930's (personal income taxes), 165, (corporate income taxes), 165-7, (payroll taxes), 167, (estate taxes), 167, (liquor taxes), 167-8, (miscellaneous excises), 168, (processing taxes), 168; general tendencies in, 162, 169; development of taxation of capital gains in, 196-9, 209-13.

Flint v. Stone Tracy Co., 239

France

taxation of capital gains in, 201, 209; excess profits tax in, during present war, 295.

Germany

income exemptions in, 175; taxation of capital gains in, 201; effect of increase of corporate tax rates in, 283; income tax collected at corporate source in, 286; failure of incentive taxation in, 290; excess profits tax in, during present war, 295.

Gifts

difficulties in taxing, in contemplation of death under estate tax, 311-13, 331; use of, to avoid estate tax, 331-2; use of tax on, to deter avoidance, 332-3; proposal that tax on, be integrated with estate tax, 333-4. See Avoidance, Estate Tax.

Graces v. New York ex rel O'Keefe, 233, 236, 237

Gray v. Darlingon, 209, 210

Great Atlantic & Pacific Tea Co. v. Grosjean, 241

Great Britain

stability of income tax yields in, 174, 212; low income exemptions in, 175; their psychological effects, 180, their administrative difficulties, 180, 181-2; taxation of capital gains in, 201, 208-9, 212; family as unit for income tax in, 292; income tax collected at corporate source in, 286; excess profits tax in, during World War, 292-4, during present war, 295-6.

Greeen, William R.

quoted, on tax avoidance, 244.


Griffiths v. Helvering, 243, 256, 257, 262

Groman v. Committe, 261

Hare, R. M.

quoted, 201.

Hanes, John W.

quoted, on tax exempt securities, 223, 226-7.

Heiner v. Donnan, 312, 313, 315

Helvering v. Bathford, 261

Helvering v. Blumenfeld, 261

Helvering v. Brown, 215, 350

Helvering v. City Bank Farmers Trust Co., 318

Helvering v. Clifford, 243, 258, 259, 260, 261, 263

INDEX—FEDERAL INCOME AND ESTATE TAXATION

363
INDEX—Federal Income and Estate Taxation

Helivering v. Gerhardt, 233, 237, 238
Helivering v. Grinnell, 222
Helivering v. Hallock, 259
Helivering v. Mountain Producers Corp., 237
Helivering v. National Grocery Co., 248, 355, 256, 262
Helivering v. Schweitzer, 261
Helivering v. St. Louis Union Trust Co., 316, 318
Helivering v. Stokes, 261
Helivering v. Tex-Penn Co., 348
Higgins v. Smith, 243, 257, 258, 261, 262, 263
Hoeper v. Tax Comm'r of Wisconsin, 252, 253
Horta v. Comm'r, 250

Incentive Taxation
effectiveness of, questioned, 290.

Intercompany Income Taxation
special nature of intercompany income, 301; rates of, imposed by 1935 Act, 302, by 1936 Act, 303, by 1938 Act, 303; reasons for, 302; present law imposing, criticized, 303, 304; not imposed in Great Britain, 303; future prospects for, 304. See Consolidated Returns.

Isom v. U. S., 246
Klein v. U. S., 315
Le Tulle v. Scofield, 268
Lucas v. Earl, 248, 249, 250, 251, 262
Lutz, Harley L., report of, on tax exempt securities, 225.

MacElr, Roswell
quoted, on valuation, 214, on tax exempt securities, 223, on excess profits tax, 298.

Maxwell v. Bugbee, 241
May v. Heiner, 314, 315
McCulloch v. Maryland, 222, 235
Millon, Andrew
arguments of, against high surtaxes, 184, 185.

National Life Insurance Co. v. U. S., 240

National Tax Association
Committee of, on Federal Taxation of Corporations: recommendations by, of cost-factor tax on corporations, 284, relating to undistributed profits tax, 286-8, to excess profits tax, 292.

Norris, George W.
quoted, on consolidated returns, 308.

Parker, L. H.
quoted, 212, 213.

Paul, Randolph E.
quoted, on valuation, 214, on tax avoidance, 264.

Personal Holding Corporations

Poe v. Seaborn, 248, 249, 251, 252, 252, 261, 262, 264
Pollock v. Farmers Loan & Trust Co., 199, 210, 232, 236, 237, 238

Procedure in Tax Cases
see Administration of Revenue Laws.

Reinecke & Northern Trust Co., 317
Reinecke v. Smith, 251

Roosevelt, Franklin D.
quoted, on tax exempt securities, 223.

Shultz, William J.
quoted, on tax exempt securities, 225.

Taft v. Bowker, 248, 262

Taxation of Large Incomes
development of surtax rates in, 183-4; tendency of high surtaxes to deter equity investments, 185-8; incentive to invest in exempt securities given by high surtax rates, 186-8, 223; social policies favoring high, 189-90: productivity of high, 191; deterrent effect of high, on investment, questioned, 190-3; higher taxes on lower incomes as alternative to lowering, 193.

Taxation of Small Incomes
various groups supporting, 171; estimated yields derivable from, 171-4; theory of exemption of, 175-6; effect of other taxes on, 176-8; stimulation of tax consciousness by, 178-80; administrative difficulties in, 180-2.

Tax Exempt Securities
tax savings from, 186 (table), 218-19; effect of, in deterring equity investments, 187-8, 221, 223, 226-7; proportion of, in decedents' estates, 188 (table), 224-5 (table); movement for taxing, 217, 222, 235, against, 322; expansion in volume of, 217; law of diminishing utility applied to demand for, 218-20; interest differential due to tax savings from, 219-20, 225-6, 228-9; importance of, to state and local governments, 220, 229-32; effect of, on progression in income tax, 221, 222, 227-8; effect of, on government spending, 224, 228; interest savings to various governments from, 229-31; revenue losses due to, 229-30; constitutional problems in taxing, 232-4, 235-6; effect of taxing, on structure of government, 234; proposals for indirect taxing, 238-42. See Constitutional Law.

Tax Yields
of federal system: in 1914, 164, in 1920, 164, in 1930, 165, in 1939, 168-70; from taxing small incomes, estimated, 171-4; of tax on high incomes, 191; variability of, from taxing capital gains, 201, 216; of war-time excess profits tax, 293 (table).

Tremaine, Morris S.
quoted, on tax exempt securities, 229.

Twentieth Century Fund
estimates of yields from taxing small incomes, 172, 173; excess profits tax criticized by, 291-2.

Undistributed Profits Tax
preliminary efforts to impose under 1934 and 1935 Acts, 273-4; President urges adoption of, 275; provisions of, in 1936 Act, 275-6; revision of, in 1938 Act, 277-8; elimination of, in 1939 Act, 278; as means of supplementing personal income tax, 275, 286-8, 289, of preventing oversaving, 289-90.

U. S. v. Field, 320
U. S. v. Merriam, 265

War Profits Tax
under 1918 Act, 270; proposals for future, 291.

White v. Poor, 318

Wooldred Realty Co. v. Rose, 247