American Taxation Association

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Ken Milani, Editor
University of Notre Dame

A MESSAGE FROM MITCHELL

PRESIDENT'S REMARKS

By the time this message reaches you, our 1979 annual meeting in Honolulu should be less than two months away. The sessions this year promise to be interesting, informative and enjoyable. I do hope that a large number of you have made plans to be in attendance.

TECHNICAL SESSIONS SCHEDULED

Barry Broden reports that he has received some very fine papers. These will be presented during two technical sessions at the annual meeting—one on Wednesday afternoon and the other on Saturday morning.

MATSUNAGA TO SPEAK

At 12:15 P.M. on Thursday, we will continue the tradition started in Portland two years ago and hold our third annual luncheon. We feel quite fortunate to have secured Senator Spark Matsunaga, a member of the Senate Finance Committee, as our speaker. A luncheon reservation form is included with this issue of the newsletter. If you will be able to attend the luncheon, please send your reservation to Boyd Randall as soon as possible. It will help us a great deal in our planning.

ANNUAL BUSINESS MEETING

Our annual business meeting will be held on Wednesday morning. The various committees, our program chairman, journal editor and newsletter editor will report on their activities during the year. Also, officers and trustees for 1979-80 will be elected (please see the announcement of the nominating committee on page 1 of this issue).

THANK YOU! !

All of us owe our most sincere thanks to a large group of our membership who have worked very hard during the last year to keep ATA moving ahead. Included are Barry Broden, program chairman for 1979; Ken Milani, editor of the newsletter; Fred Streuling, editor of our journal; the chairmen and members of our committees, the Board of Trustees and the other officers of our Association. Each and every one of these individuals has given me his full and complete cooperation, and I want to express my thanks and appreciation to all.

THANKS TO YOU!!

Finally, I want to again say "thank you" to the membership of ATA for allowing me to serve as your president during the past year. It has been both a rewarding and an enjoyable experience.

See you in Honolulu.

Al Mitchell

NOMINATING COMMITTEE SEEKS MEMBER INPUT

During the annual business meeting of ATA in Honolulu (to be held on Wednesday morning, August 22), the election of officers for 1979-80 will be conducted. The positions to be filled are President-Elect, Vice-President, Secretary-Treasurer and three members of the Board of Trustees.

Four members have agreed to serve as a nominating committee. They are:

Larry Phillips, Chairman, 24036 Wimbledon Road, Shaker Heights, Ohio 44122 (216) 751-7516

Jim Hasselback, Department of Accounting, Texas A&M University, College Station, Texas 77843 (713) 845-5014

Jim Parker, School of Accountancy, University of Missouri, Columbia, Missouri 65211 (314) 882-4272

Jim Boyd, Accounting Department, College of Business, Arizona State University, Tempe, Arizona 85281 (602) 965-7130

Please give some serious thought to this matter. Contact any member of the nominating committee with your nominations. If you can gain the consent of your nominee to allow his or her name to be placed on the ballot, if selected, it will assist the committee. However, if you would prefer to have the committee obtain the nominee's approval, they will carry out your request. Also, feel free to place your name in nomination for any of the vacancies.

PROFILE OF A PROGRAM: GOLDEN GATE U.

The growth in graduate-level tax education in the U.S. in recent years has been explosive. Nowhere is this more apparent than at Golden Gate University, which launched its first graduate tax course in 1967 and today, through the Graduate School of Taxation, offers more tax courses to more students than any other school in the nation.

Some 1,000 students are now enrolled in the courses offered by the Graduate School of Taxation at the main campus in San Francisco and in the programs offered in Los Angeles, Seattle, Sacramento, Monterey, Oakland, Palo Alto, and San Jose.

In 1970, when the M.B.A. (Tax) curriculum was established, GGU became the first business school on the Pacific Coast to offer a program leading to a degree in the field, and was one of only nine in the country doing so. The Lubell and Broden study predicts that by 1980 there will be in excess of 58 schools in the nation with similar programs.

There are now 47 active instructors in the San Francisco program. Most are attorneys or C.P.A.s, and many hold advanced degrees in taxation. "There's a tremendous esprit de corps among the faculty," Dean John Cordell Williams says, "and our instructors tend to stay with us year after year. That gives a real continuity and stability to the program." Twelve Adjunct Professors serve in the Graduate School of Taxation.

The makeup of the student body of the Graduate School of Taxation has slowly changed over the years, Dean Williams observes. "The first students were old-time practicing C.P.A.s who had learned by the school of hard knocks, but were willing to come back to school to fill in the gaps," he says. "Today, there are more full-time students who are younger and may have had more academic but less practical experience." The program is beginning to attract people from outside California, too, as the reputation of the program and of GGU has spread to other parts.

The number of women entering the program is also reflected in the makeup of the faculty. The faculty now includes three women instructors: Kim Marois (J.D., C.P.A.), who teaches Income Tax of Individuals; Cathy Ravano (M.S.-Tax, C.P.A.), who teaches Tax Research; and Evelyn Low (J.D., LL.M.-Tax), who teaches Corporations and Shareholders.

Required for the M.B.A. or M.S. (Tax) degree are a total of 30 semester units of advanced coursework in taxation, beyond the 12 units of prerequisite courses in accounting, financial analysis and federal income tax. Students who have not completed the prerequisite courses prior to admission to the Graduate School of Taxation are required to do so before 12 units of credit have been earned in advanced courses.

Students pursuing either the M.B.A. or M.S. program must complete five required graduate tax courses (marked with an asterisk in Table A). The remaining 15 units (five courses) are electives. M.B.A. candidates take at least three of the elective courses in the tax area, and M.S. candidates all five. Elective courses in taxation are also listed in Table A.

GGU's Graduate School of Taxation offers curricula leading to the M.B.A. or M.S. degrees in Taxation. Joint degree programs leading to the M.B.A. (Tax)/J.D. and M.S. (Tax)/J.D. are offered in cooperation with GGU School of Law.

The M.B.A. (Tax) program is designed for the individual accountant engaged in tax work in public practice, corporate tax departments, or government. The M.S. program is geared to the practicing attorney who wants to complete requirements for qualification as a tax specialist (the program is approved by the California State Bar Board of Legal Specialization as meeting educational requirements for Certification in Taxation).

As the reputation of the graduate taxation program has grown over the years, the university has received requests to take it to other cities where the need for such a program has not been filled by other institutions. Today, in addition to programs offered off-campus for the convenience of tax professionals in cities around the San Francisco Bay Area, the Graduate School of Taxation offers its courses in Los Angeles, Orange County, Monterey, Sacramento, and Seattle. The largest of these off-campus programs are in Los Angeles and Seattle.

TABLE A — COURSE OFFERINGS — GOLDEN GATE

*Tax Research & Decision Making
*Federal Income Taxation of Individuals
*Taxation of Capital Assets
*Federal Tax Procedure
*Federal Income Taxation of Corporations and Shareholders
California State Taxation
U.S. Taxation of Foreign Income and Aliens
Advanced U.S. Taxation of Foreign Income and Aliens
Advanced Federal Income Taxation of Corporations and Shareholders
Estate and Gift Taxation
Real Estate Taxation
Federal Income Taxation of Partners and Partnerships
Federal Income Taxation of Trusts and Estates
Taxation of Exempt Organizations
Legal and Accounting Aspects of Federal Tax Fraud
Consolidated Income Tax Returns
Estate Planning
Taxation of Executive Compensation
Taxation of Financial Institutions
Introduction to Employee Retirement Plans
Employee Retirement Plans—Selected Topics
Accounting Aspects of Federal Income Taxation
Advanced Capital Gains Taxation
Public Taxation Policy
Tax Litigation
*Required Course

DOCTORAL RESEARCH IN TAXATION

As a regular feature in the newsletter, we attempt to provide continuous reporting of doctoral dissertations in progress and completed.

"Charitable Contribution Study" by John M. Strefeler, University of Arizona

The Tax Reform Act of 1969 materially altered the tax treatment of charitable contributions of ordinary income property. Previously a deduction for the fair market value of the property was allowed; the Act restricted this deduction to the adjusted basis of the donor. The purpose of the study was to analyze the intent of Congress in enacting this provision, to determine the effect of this provision on the donation of ordinary income property, and to evaluate alternative tax approaches for meeting Congressional intent.

The history of the charitable contribution deduction was examined to determine how Congressional intent developed and how it changed during the drawing up of the 1969 Act. The examination indicated that the intent of the deduction for donations had been to provide an incentive for such giving. This objective, as well as the objective of doing so without permitting unjustified tax benefits, has been maintained intact over time. They remained present in 1969; Congress merely decided that the objective of abuse prevention had been neglected.

The philosophical basis of the intent of Congress was studied and the Congressional intent was found to rest upon several assumptions. The two key assumptions were that it was worthwhile to support philanthropic institutions and that the tax system was the best way to provide that support.

Analysis of the 1969 Tax Reform Act disclosed that a number of undesirable side effects (or potential side effects) which had existed under the prior law were removed. These included vertical inequity as well as the preferential treatment given to property donations and service donations. The 1969 Act also removed the potential of a donor making a profit from charity in the sense that the tax avoided on unrecognized income plus the tax saved due to the deduction would exceed the fair market value of the property. Other problems avoided were the need to set subjective valuations (along with the potential for overvaluation) and the chance of eroded taxpayer confidence as a result of the other problems.

Empirical evidence was developed to determine if the Tax Reform Act created results which were consistent with Congressional intent. A mail survey was sent to artists, art museums, government archives, and university libraries. Another survey was sent to university foundations; inquiries to selected politicians supplemented this survey. The evidence indicated that donations of works of art by the creating artist had decreased due to the 1969 Act. Income tax factors appeared to be the most significant influence on donation decisions. For donations of papers and similar materials by politicians, there did not seem to be a change in contributions due to the Tax Reform Act. Such other factors as personal prestige appeared to affect donations more strongly than income tax factors. Other survey information suggested that contributions by literary figures may have been materially reduced due to the 1969 Act.

Since the incentive to give was present without any tax inducement for political papers, the restriction of deduction to adjusted basis was found to be an acceptable tax treatment for this type of property. The need for a stronger incentive for artistic contributions pointed to the need to revise the 1969 law. A tax credit based upon fair market value was found to be the best alternative. Such a provision appeared to provide a greater incentive while still avoiding the undesirable side effects which had occurred under prior law.

ATA BRIEFS

The Office of Tax Analysis (OTA) is a division of the Department of the Treasury. OTA conducts research on the influence of the tax system on the U.S. economy. The research which is performed by both OTA staff and outsiders is published periodically. For further information about the *OTA Papers* contact the Assistant Secretary for Tax Policy, Office of Tax Analysis, Washington, D.C. 20402 . . . **If you are planning to attend the ATA luncheon, please send the reservation insert to Boyd Randall as soon as possible. This will assist those making arrangements for the luncheon. Thank you!** . . . The newsletter is always seeking input from members. If you have an item you would like considered for publication, an announcement, etc., please send it to Ken Milani, 230 Hayes-Healy Center, University of Notre Dame, Notre Dame, Indiana 46556.

ATTENTION!! ATTENTION!!

The Journal of the American Taxation Association **is seeking submissions. Please send your article to:**

Fred Streuling
Box 22—153 FOB
Brigham Young University
Provo, Utah 84602

MEDICAL REQUEST

Members of the ATA Case Writing Committee are experiencing strong attraction toward geratology. Only transfusions of type TC (TAX CASES) blood from ATA members can cure symptoms of gibbousness and glossitis. Just one tax case per member would provide over 600 total cases for all. Do it now and make your gloriole glister.

Sincerely yours,

Kevin M. Misiewicz
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P.S. Try it; you'll like it!!

TEXTBOOK REVIEWS REPORT EXPERIENCES, INSIGHTS

Black. At one time that was the list of possible car colors.

P-H or CCH. Not too many years ago, a tax teacher's textbook decision involved these two efforts. The 1970's have seen a rapid expansion of tax texts available for adoption . . . and more are on the way.

In this issue of the newsletter, two books are reviewed. The reviews are not the typical listing of chapter titles with a cursory comment on the content. Instead, the reviewers have provided us with their experiences, feelings, insights and professional judgements based upon actual usage of the particular text.

Ken Milani

HOFFMAN

WEST'S FEDERAL TAXATION: CORPORATIONS, PARTNERSHIPS, ESTATES AND TRUSTS

This text is designed for students that have successfully completed a course in the taxation of individuals and desire an additional course which focuses on some of the aspects of corporation, partnership, or estate and trust taxation. At Madison, the text is used in an elective three-credit-hour semester course taken by approximately 60-70% of the accounting majors, and a few finance and law students. While some of the text's strengths are identified below, the major thrust of this review is on identifying weaknesses and some of the means taken to overcome them. To avoid misconceptions, the reviewer's overall opinion of the text is stated here. The text is an excellent one for use in a second course in taxation. It is well written and allows the instructor good flexibility in selecting topics for coverage. Any identified shortcomings are minor when compared with the benefits to be derived from adoption.

Quite frankly, there is too much material to be effectively covered in one three-credit-hour undergraduate course. Perhaps in two courses justice could be done to the included topics. As a result of time limitations, only chapters 1-3 and 6-8 (inclusive) were covered in the course at Madison. While this review is not intended to be a chapter by chapter critique of titles and content, a short discussion of the contents of the selected chapters seems appropriate.

Chapter 1 looks at the "whys" behind the tax laws, the differing weights given to tax authorities, and introductory tax research methodology. Chapter 2 emphasizes the basics of corporate taxation, corporate formation, and some special Code provisions which involve corporate capital, debt, and investor losses. Chapter 3 covers corporate earnings and profits, dividend distributions, taxable and non-taxable stock dividends and rights, stock redemptions (including preferred stock bail-outs and redemptions through related corporations), partial liquidations, and distributions of a controlled corporation's stock and securities. Chapter 6 addresses the accumulated earnings tax and personal holding company tax. Chapter 7 is devoted to the taxation of Sub-chapter S corporations. Chapter 8 covers partnership taxation.

The major strengths of the selected chapters are their ease of reading and comprehension, as well as their excellent illustrations. Students utilizing the text will discover some of the reasons behind certain Code provisions, acquire some tax planning ideas, and feel as if they are reading a textbook rather than a tax service. The major weaknesses are the lack of complex-multiple issue type homework problems coupled with too much leading of the students to answer, some errors in the chapter prose and instructor's manual, inadequate coverage of a few topics, the basic assumption used in most of the Sub-chapter S discussion, and the indiscriminate use of the term "undistributed taxable income (UTI)" for a Sub-chapter S corporation.

By no means do all the homework problems lack complexity or overlead the students, but a sufficient number do exist. The problems (not discussion questions) at the end of Chapter 2 are illustrative of these weaknesses. Here, out of 19 problems, there are two objective types of problems and seven which ask several leading questions. While there is some degree of topic integration, most of the 19 problems focus on a specific issue. To overcome this weakness, supplemental handout problems of the complex-multiple-issue type were used. A suggestion for future editions would be either the addition of complex-multiple-issue-type problems or the combination of some existing problems along with a deletion of the leading questions.

As to the errors in the prose and instructor's manual, they were identified through the instructor's general knowledge of the topics under consideration, additional instructor research, and the investigative skills of inquisitive students (sometimes to the instructor's chagrin). There were not an excessive number of errors, but occasionally they caused additional work for the instructor.

A basic problem encountered in most of the Sub-chapter S material is related to the assumption that the corporation and shareholders are on the same tax year. The problem manifests itself when trying to explain how to compute a calendar year shareholder's PTI (previously taxed income) in a fiscal year corporation, and tie this computation into the discussion and order of cash distributions presented in the text. A question to be answered is at what point in time does a shareholder's UTI (undistributed taxable income) become PTI. To overcome this problem, flow charts were designed which illustrate the relationships among TI, UTI, and PTI. In some of these charts, PTI is divided into segregated and unsegregated portions. The segregated portion is the UTI (*that is a part of PTI*) awaiting distribution for some period of time after the end of the corporate tax year, but not in excess of 2½ months. For further clarification of this problem see Regulation 1.1375-4(d)(2)(g) Ex. (5)(i) and (ii).

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In several places, the instructor had to expand on the book's coverage. Some of the expansion places are indicated below:

1. Interaction of net operating loss carryovers with charitable contribution carryovers.
2. Charitable contributions of beginning inventory items and the impact of Regulation 1.170A - 1(c)(4).
3. Limitation on contributions of ordinary income property to the ill, needy or infants under §170(e)(3).
4. Clarification of the handling of non-deductible organizational expenses.
5. Comparison of the formula for computing the amount of corporate tax preference on long-term capital gains under the Code with the formula found on the back of Form 4626.
6. Differences between affiliated groups and controlled groups.
7. Organizations qualified to file a consolidated tax return.
8. The meaning of "the person contributing services must transfer property having more than a relatively small value in relation to the service he performed" and the impact of Rev. Proc. 77-37 regarding transfers to a controlled corporation under § 351.
9. The meaning of the words "any property" under §362 when cash is contributed to a corporation by a non-shareholder and the impact of Regulation 1.362-2.
10. Impact of cash and property dividends of regular corporations when current earnings and profits are insufficient to cover the distributions.
11. The amount of constructive dividend from a bargain sale of property to a *corporate* shareholder.
12. Attribution rules under §318 for capital stock redemption—specifically, the impact of §318(a)(5)(c).
13. Clarification of the differences between the meaning of "dividends paid during the year" for purposes of the accumulated earnings tax and personal holding corporation tax, and dividends paid during the first 2½ months of the next year.
14. The impact of the *Larson* case on the taxability of organizations claiming limited partnership status.
15. The tax impact at the partner level of the failure to have a special allocation agreement for depreciable property contributed to a partnership.

In many places throughout the Sub-chapter S material, the authors properly utilize the term UTI. However, in other places, UTI is used when reference should be to TI. At the bottom of p. 329, the authors clearly distinguish between UTI and TI. They indicated that *"once* taxable income is computed, UTI can be determined." The indiscriminate use of the term UTI may stem from a desire to be helpful. In taking this approach the authors have ignored their own distinction as to when TI, or what remains of it after cash distributions during the year, becomes UTI. To overcome this problem, the students were asked to change several of the UTI's in the chapter to TI's.

W. C. Stevenson
Professor
University of Wisconsin-Madison

RABY

THE INCOME TAX AND BUSINESS DECISIONS

Last fall (academic year 1978-79) I used the text *Income Tax and Business Decisions* by Raby for the first time in my M.B.A. tax class at Notre Dame. Approximately 70 percent of the M.B.A. students at Notre Dame have an undergraduate degree in a nonbusiness area and therefore my course represents for most their first introduction to federal taxation.

In my opinion the strongest features of the Raby textbook for use in an introductory M.B.A. tax class include the following:

First, the book is written as a learning tool text and not a reference book. As such the book is interesting for the student to read.

Second, the student gains a basic knowledge of the underlying principles of income tax law. By using a general approach versus the encyclopedic approach of a reference book, Raby helps the student to develop a sense of the pattern of income taxation which they will retain in the future and use as a foundation for later learning through study and experience. Although emphasis is on the general approach certain areas which every executive or entrepreneur should have greater appreciation for are covered in more depth. These include, among others, capital gains, the timing of income, depreciation, investment credit, minimum and maximum tax and inventories.

Third, the student acquires an appreciation for the manner in which the income tax can change the relative attractiveness of the alternatives confronting the decision-maker. In the area of decision making in business, Raby emphasizes the importance of the student thinking in terms of cash flows instead of in terms of revenue and expense.

Fourth, the text covers a rather wide spectrum of topics. Although primary attention is given in the text to the income tax, Raby also examines transfer taxes as well as tax practice and policy. Depending upon the objectives of the instructor, certain chapters can be easily added or deleted.

Fifth, to illustrate how the income tax applies to the income of corporations, partnerships, fiduciaries and individuals, Raby gets the student involved with simple tax returns for each type of taxpayer. Again, the purpose is not to teach the student the basics of tax return preparation but rather to help the student to grasp the tax pattern of the different taxable entities.

Sixth, a large selection of problems varying from simple to rather complex are included at the end of each chapter. Each chapter in part two of the text contains a problem which requires the student to complete a simple tax return.

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Seventh, the solutions manual contains a self-evaluation test for each chapter which may be used by students on their own in testing whether they have grasped some of the points made in the chapters involved. Another use is to adapt them to quizzes to be given at the end of the coverage of each chapter. Furthermore, the solutions manual contains two mid-term examinations and a final examination.

I consider the following to be the weakest aspects of the book:

First, the text at times leaves the student asking how certain figures are derived. This problem comes up primarily in part three of the text in which the author takes a closer look at the details. I was able to offset this particular weakness by taking a portion of the class period to answer student questions relating to material in the text.

Second, in regard to certain homework problems, the author does not always clearly state the assumptions. As a result the students' solutions to some problems varied significantly. This was particularly true in regard to Chapter 14 dealing with "How the Tax Law Affects the Investor." This particular problem can be offset by informing the students of the underlying assumptions prior to assigning the problem.

My suggestions for the Raby text include the following:

First, it would be helpful if some cases were included in the text which simply require the student to identify potential tax problems and opportunities.

Second, due to the annual revenue acts which have become commonplace in the last few years it would be helpful to have annual editions of the book. The author currently provides a rundown as to where a new law impacts the text, the problems, and the problem solutions.

Third, because the text is not revised annually, I suggest (as does Raby) concurrent use of a reference book such as the P-H Federal Tax Handbook or the CCH Master Tax Guide. Furthermore, certain questions and problems in the text require the student to do some research outside of the book. Utilizing a reference book not only facilitates much of the outside research but also introduces the student to the legalistic format in which reference books are written.

Jim Wittenbach
Associate Professor
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TITLE OF NEW JOURNAL: THE JOURNAL OF THE AMERICAN TAXATION ASSOCIATION

In the fall issue of the newsletter, members of ATA were asked to select a title for the new journal. As of February 1, 1979, the results of the vote were as follows:

The Journal of the American Taxation Association	**38**
The Journal of Tax Research	**35**
The Tax Review	**24**
The Tax Educator	**15**
Other (no individual title received more than 3 votes)	**17**

Letters were then mailed to those individuals who voted for a title other than *The Journal of the American Taxation Association* or *The Journal of Tax Research.* These people were given the opportunity to change their vote.

After considering the original votes and changes, the results are as follows:

The Journal of the American Taxation Association	**71**
The Journal of Tax Research	**49**

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