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Book Reviews

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BOOK REVIEWS

OIL AND GAS FEDERAL INCOME TAXATION. By Kenneth G. Miller. Chicago: Commerce Clearing House, Inc., (2nd edition) 1951. Pp. 284.

At the present time North Dakota appears to be well on the road to becoming an oil producing state. With this new status many new problems of an economic, political, and legal character have arisen. Among such legal newcomers is the depletion deduction for federal income tax purposes.

This book concerns itself solely with the federal income tax complexities in the area of oil and gas. The author manages the tax department for Arthur Young & Company at their Houston office in our sister oil producing state of Texas. Thus it would seem that the author, practicing in a state which is a leader in the production of oil, should be well qualified to discuss this topic. Therefore our state neophytes would be wise to heed his counsel. Furthermore the subject is of more than state regional interest for residents outside of the oil producing areas may have economic interests in oil properties.

The author, putting first things first, defines and explains depletion in chapter one. Only persons with an "economic interest" are entitled to a depletion allowance, and a chapter is devoted to an explanation of this phrase. This leads up to the calculation. Here both the percentage deduction from gross income and the cost depletion methods are described. Of course if the percentage method is utilized, a computation must be made under the cost method also since the law requires the use of the method resulting in the highest depletion.

If depletion has been taken before production and the lease is abandoned, terminated, or forfeited, the depletion allowance must be restored to income by the taxpayer. These ramifications are discussed in a separate chapter.

Throughout the Internal Revenue Code the phrase "from the property" is used in connection with depletion. The interpretations of these words by the courts and the Treasury Department are adequately explained. The next step is to thoroughly cover the terms gross and net incomes from the property as they pertain to depletion.

Even a veteran property lawyer may be unfamiliar with the various property rights which can be created in oil and gas. A competent description is presented for royalty, minimum royalties,

overriding royalties, working interest, participating interests, oil and gas payments, carried interests, and net profits arrangements. To the uninitiated these terms are so much oil jargon. However, a perusal of this book will give the reader an insight into their meanings.

The author in three chapters exhaustively covers bonus on a lease, lease, sublease, and sale of lease as these subjects relate to depletion and tax matters. Nor is the lessee neglected, for included in the contents are the intricacies with which the lessee may find himself involved. In four chapters such topics as intangible drilling and development costs, lease costs, delay rentals, abandoned leases and equipment, in addition to worthless royalties are delved into as far as the income tax aspects are concerned.

The author quotes liberally from court decisions as well as rulings and memoranda from the Treasury Department. In the fashion of good legal writers, citations are sprinkled all through the book.

If the attorney is seeking an all inclusive reference in a short single volume covering this subject, consideration should be given to this text. As such it seems to be the answer to a prayer. In the preface Mr. Miller says, "Assuredly no industry has more difficult technical tax problems than the oil and gas industry." The author has made a worthy contribution to the simplification of these problems.

VELOYCE G. WINSLOW

RISKS AND RIGHTS IN PUBLISHING, TELEVISION, RADIO, MOTION PICTURES, ADVERTISING AND THE THEATER. By Samuel Spring—W. Norton & Co., Inc., New York (\$7.50).

Truly an omnibus discussion of every conceivable right and risk involved in maintaining a place in the public eye; or the reverse, trying to avoid the searchlight of publicity—is this new work by Samuel Spring, New York City attorney.

The book has something for everyone: a quick survey of the subject for the busy lawyer; definitions and situations in easy to read and understand language for the average layman.

Extremely modern in its approach, the book explores all angles of the comparatively new legal right, privacy; and the implications of the intrusion of that newest of all medium in the entertainment field, television.

The author shows his appreciation of Mr. J. Q. Public by giving him, in J.Q.'s own language, such items as details of the "prohibition of the free ride" (rules against unfair use of the entertainment or publication property of another); the evils of "palming off" (deception of an unsuspecting public); and "whodunit" clues (in this instance, those used by courts to unravel extensive similarities in contested materials).

The work even takes into consideration the censor, that arch-enemy of the author, playwright or script writer who wants his art to reach the public in the exact package in which he wrapped it up. Just where the writer's prerogatives stop or those of the censor begin are well mapped out by Mr. Spring.

This part of the country comes in for mention in the volume. North Dakota's statute which sets up criminal defamation by radio as slander is cited. Only five states have enacted statutes on this new form of defamation and, of the five, only California and Illinois agree with North Dakota. Oregon and Washington statutes, as well as the weight of judicial precedent, call it libel.

In Minnesota, the book develops, libel requires a showing of intent to defame, contrary to the usual rule of absolute liability requiring no such showing of intent.

The book should prove especially valuable for anyone interested in copyrighting any type of work. And also for those wishing to protect rights under copyright, either in this country or internationally. One appendix quotes the federal copyright statute in full, another provides copies of all forms needed in the copyright process.

Interesting to the newspaperman is the discourse on the right of privacy. Protected almost invariably from this newer concept are newsworthy items about individuals. At the same time, "little persons" seem to be given protection, in many instances, from attempts at exploitation under the guise of entertainment, feature writing and the like.

The book avoids legalistic entanglements in its straightforward encompassing of its vast subject matter. Cases used as examples are cited at the end of the volume in notes, enabling the author to cut swiftly and interestingly through an area which has tripped many another writer by its very complexity and scope.

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A CIVIL ACTION—FROM PLEADINGS TO OPENING OF TRIAL, by Hubert Hickam of the Indianapolis, Indiana Bar. Published by the Committee on Continuing Legal Education of the American Law Institute, collaborating with the American Bar Association, 133 South 36th Street, Philadelphia 4, Pennsylvania.
(February, 1953) \$2.50 Pages 196

This book is a practical, thorough guide to the practicing lawyer in one aspect of the preparation for trial of a civil action. It begins with pleadings and ends with the opening of trial. The author, a distinguished member of the Indianapolis Bar, writes with a background of long experience. He has been both a "country" and "city" lawyer and his text reflects the thoroughness and completeness of his methods of preparation.

The table of contents itself is an excellent checklist. Included are the following important aspects for preparation for trial:

1. The Complaint
2. Pleadings and Motions Preceding Answer
3. Answer
4. Summary Judgment
5. Organization of the Case
6. Analysis of the Case
7. The Use of Visual Evidence
8. Depositions and Discovery
9. Requests for Admissions
10. Stipulations as a Substitute for Proof
11. The Pre-Trial Conference
12. Negotiations With Opposing Counsel
13. The Trial Brief
14. Preparation of Documents for Use in the Trial
15. Preparing the Witness
16. Should a Jury Trial be Requested
17. Preparing Jury Instructions

Thief brief outline cannot do justice to the thoroughness of Mr. Hickam's work. He has left nothing unsaid and what he has said has been so well done that this book will be helpful to every lawyer, both young and old, who tries cases. The book is one in a series of six published by the Committee on Continuing Legal Education which will cover a civil action through the stages of preparation, trial and appeal.