

SINGAPORE TAX HANDBOOK. By PETER TAN CHEE MENG AND JENNY LIM YIN NEE. [Singapore: Longman 1988. xv + 350pp. Softcover.]

THIS is another “simplistic explanation” of taxation in Singapore. It is basically a “pointer” guidebook, which is not addressed to the legally trained. Some may have reservations as to the title, which may suggest a more ambitious work.

The writers, a lawyer and an accountant, clearly have some practical experience. The position of the tax authorities on some points of law are described in the book. One criticism, which cannot be strongly made with respect to a book of this nature, is the fatalistic acceptance of the position of the tax authorities. For example, the practice of taxing representative offices on an imputed service fee of 5% from their head offices is accepted, ostensibly on the basis that a taxable entity need not be a legal entity.¹ The problem of trading with oneself is not considered. A firmer base for the position must be an imputed profit made by the company as a whole from its operation in Singapore. In some instances, it is not made clear whether the proposition explained is based on statutory authority, administrative interpretation or extra-statutory concession. The text is not footnoted, and more attention should have been paid to the citation of statutory provisions setting out the stated rules. Non-legally trained readers will have difficulty understanding the citation of foreign case law, some of which are not even identified as such.

No work on Singapore income tax can be complete without a segment on section 33, the general anti-avoidance provision of the Income Tax Act.² The second last chapter is devoted to this provision. The authors pose what they seem to consider a rhetorical question, in response to the Inland Revenue Department statement that it will not interpret the extremely wide provision literally: “must a person be helpless insofar as tax is concerned?”³ It is questionable whether a taxpayer is really “helpless” if the Inland Revenue does not act in accordance with law. A more valid criticism is against the administrative scheme of “exemption” from the wide net of section 33 by an undefined discretion. The uncertainty is not in the section, since it covers any tax avoidance arrangement with no other commercial purpose; but in the stated policy that it will not be applied literally. Also, the authors should perhaps have mentioned the fact that the Comptroller’s power to reconstruct an arrangement is for fiscal purposes only. The effect at general law is unchanged, unless, of course, the transactions amount to a sham.

All that having being said, one should nevertheless concede, without question, that the book is well organised and highly readable, and that the coverage is quite adequate to meet the basic income tax questions of most lay people. There are simple calculations to explain some of the legal provisions, with mathematical formulas in certain cases. The working examples are self-contained and simple enough to be intelligible to those who are not very comfortable with accounts. Nothing said here should be taken to suggest that the book should not be recommended to those with a relatively basic desire to know something about income tax in Singapore.

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¹ At p. 12.

² Cap. 134, 1985. (Rev. Ed.)

³ At p. 311.