

REVENUE LAW IN SINGAPORE AND MALAYSIA, CASES AND COMMENTARY, BY LEO D POINTON. (2nd Edition). [Singapore: Butterworths Asia. 1993. xxxiv + 424 pp. Softcover: S\$109.00/M\$174.00/HK\$490.00/US\$65.00]

THIS second edition of Dr Pointon's book is published some seven years after the first in 1986. In the preface, the writer states that the purpose of the second edition is to update and expand the previous one. New chapters on Companies, Trusts and Estates, and International Tax have therefore been added; the discussion on Source and Residence has also been expanded. The inclusion of chapters on these topics is useful and fills a gap which existed in the first edition.

Earlier features highlighted in a review of the first edition (see (1987) 29 Mal

LR 139) have been retained. The most significant feature, in this writer's view, is its succinctness and clarity of explanation of concepts. The book gives a good introduction to leading local and Malaysian tax cases. The title of the book however, is misleading since the only forms of taxes it deals with are income tax and estate duty. Two branches of revenue law often encountered in practice – stamp duties and property tax – are not covered at all in the book. Considering therefore that there have been many local property tax decisions, one would certainly expect a chapter on property tax in a book dealing with revenue law. In Malaysia, real property gains tax has made a significant impact on the property and construction industry. Some mention therefore, of the workings of the Real Property Gains Tax Act 1967 together with the decisions of the Special Commissioners thereunder should have been made.

In this reviewer's view, the discussion on source which admittedly is a new addition could be further expanded. Source is a rather significant aspect of tax practice in Singapore and Malaysia since both countries operate on a territorial as opposed to a world-wide basis. Unfortunately, the "received" basis of tax is not discussed, neither is the distinction between the "arising" or "derived" basis and the "received" basis of tax mentioned. The only recent local tax case on source, *Chandos Pte Ltd v CIT* [1987] 2 MLJ 670 and two recent leading Privy Council source cases shedding light on how a source of income is determined (*CIR v Hang Seng Bank Ltd* [1990] STC 733 and *CIR v HK-TVB International Ltd* [1992] WLR 439) are, unfortunately, omitted and should have been reproduced.

One minor comment can be made on the citation of cases. Tax cases are quite often lengthy and contain many facts. The author has done a commendable job in editing the cases reproduced so that most cases do not exceed three pages in the book and many of them are contained within two pages. However, cases reproduced or cited in the reproduced cases should be cited as appearing in as many alternative law reports as possible. Also, reference should be made to the more easily available or more popular law reports such as The All England Law Reports or the Malayan Law Journals (MLJ) instead of CCH's Malaysian and Singapore Tax Cases (MSTC) or the UK Government's Tax Cases. So *Ransom v Higgs*, reproduced at p 126, should be stated as reported at [1974] 1 WLR 1594, [1974] 3 All ER 949, [1974] TR 281, [1974] STC 539, 50 TC 1, 118 SJ 849 instead of just [1974] 3 All ER 949, 50 TC 1. Where possible, local tax reports should be referred to in preference to UK law reports and both the MLJ and MSTC citations should be mentioned (So *American Leaf Blending Co Sdn Bhd v DGIR* reproduced at p 171 should be listed as reported at [1979] 1 MLJ 1, (1950-1985) MSTC 33 instead of just [1978] PTC 561). All this would make for easier accessibility for readers (especially the majority of tax practitioners who are accountants) who wish to research further into the factual background of the cases (which in tax practice is particularly important) but may not have the pertinent tax law reports available.

There are several other Singapore cases which could perhaps have been mentioned or reproduced. For example, the Board of Review decisions in *SCL Pte Ltd v CIT* (1991) 1 MSTC 5032, *C Ltd v CIT* (1991) 1 MSTC 5052 and *W Holdings Pte Ltd v CIT* (1992) 1 MSTC 5135 are indicative of the very robust approach taken by the Board of Review in holding that in general, surpluses arising from the acquisition and sale of assets are more likely to be considered income rather than capital. These cases are also useful as illustrations of the factors which the Board would consider in arriving at this conclusion. Whether any surplus accrues from a disposal of an asset is quite often an important business consideration in the Singapore and Malaysian context since there is no capital gains tax. (Though it should be noted that Malaysia has a Real Property Gains Tax Act which seeks to

tax surpluses arising from the disposal of real property.) The Board of Review's decision in *MCST No XYZ v CIT* (1993) 2 MSTC 5155 contained some rather interesting comments on the meaning of 'club or similar institution' in s 11(1) of the Income Tax Act (Cap 134, 1992 Ed) and would seem to merit a mention. By far the most important recent Court of Appeal decision in Singapore is the case of *Tan Boon Yong v CIT* [1993] 2 SLR 48, (1993) 2 MSTC 7205 where the Court of Appeal unanimously held that courts could refer to ministerial statements made in Parliament on amendments to the Income Tax Act to determine the intention of Parliament in introducing these amendments. Perhaps one reason for the omission of this case is that judgment was handed down on 5 February 1993, after the Preface to the second edition was written in November 1992 (though copyright to the second edition dates from 1993).

On the whole, the book retains the same presentation as the earlier edition. Its strength lies in succinctness, clarity of explanation and good editing of cases so that the main points in the reproduced cases are put forward clearly to the reader. It is certainly a book worth looking at as a first step in the course of tax research.

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