

TAXATION OF PROPERTY TRANSACTIONS IN HONG KONG BY JEFFERSON P  
VANDERWOLK & ANDREW HALKYARD [Butterworths Asia, 1995, xvii + 169  
pp (including index). Hardcover: S\$125.00]

THE purpose of this book, as stated in its Preface, is to introduce legal rules and doctrines relating to the taxation of property in Hong Kong. This purpose is effected by way of reproduction of materials and by the commentary and notes which mainly serve to introduce and identify issues raised by the cases and materials so reproduced. Materials reproduced include extracts of leading Hong Kong and English cases, some tax articles and Hong Kong Inland Revenue Departmental Interpretation & Practice Notes. It would therefore be more accurate to describe the book as a compilation of cases and materials. The authors say, in the Preface, that “emphasis has been placed on the legal analysis applied in actual cases, with a view to identifying areas in which the law may be misunderstood or the practice or the tax authorities... may be at odds with the law.” However, this reviewer was unable to find any such examples highlighted in the book in which the practice of the Hong Kong revenue authorities were “at odds with the law”.

Given the absence of a capital gains tax regime in Hong Kong, the main tax issue, regarding property transactions, is whether surpluses from the sale of property would be subject to income tax under Hong Kong’s Inland Revenue Ordinance. The writers of this small book cover the point, from different angles, in three chapters. Chapter 2 discusses the issue whether a purchase and sale of property would amount to an adventure in the nature of trade, chapter 3; on whether the property was disposed of as a capital asset or trading stock, and chapter 4; on whether property which was initially acquired as a investment/capital asset had changed its status to trading stock. In chapter 2, which deals with adventures in the nature of trade, it was odd to find the traditional badges of trade discussed, since the badges of trade are indicators of whether a person was trading and not whether there was an adventure in the nature of trade. Perhaps the writers could have included a section on the concept of trading, as opposed to adventure in the nature of trade. It is also felt that chapters 3 and 4 could have been merged, since, whether a property asset had changed its status from investment to trading stock would only matter at the time of its disposal, and this issue is raised in chapter 3.

There are also chapters on Stamp Duties, Property Tax, and Capital Allowances. The final chapter, chapter 9, deals with taxpayers who are in a special position *vis-à-vis* taxation of property transactions. The writers deal, in particular, with banks and insurance companies, trustees, liquidators, and foreign persons. However, the cases and the commentary suggest that the tax rules in relation to these special taxpayers appear to be of application to not just property transactions, but all other transactions as well.

The authors recommend, in the Preface, that a more detailed work be consulted where certain issues have not been dealt with, or only dealt with partially in the book. On this understanding, the book is a suitable introduction to a practitioner on the taxation of property transactions in Hong Kong. Students and lay persons with little or no tax background would have more difficulty appreciating the contents

of this book.

LIU HERN KUAN