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## BOOK NOTES

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OHIO TAX LAWS ANNOTATED. *Issued by the Ohio Department of Taxation, 1941.* Pp. 843, index. \$3.09.

The product of compliance with Ohio General Code § 5624-6 as amended at the last legislative session, this moderate-sized, attractively-bound volume conveniently brings together all Ohio statutory provisions relating to the levy, assessment, and collection of the state's many taxes. Added features are selected sections from the Ohio Constitution; annotations, legislative history, and comments on the statutes; the rules of practice and procedure of the Board of Tax Appeals; and a seventy-seven page improved index which with rapidity and ease unlocks the manifold provisions that today make up Ohio's tax laws. For owners of *Page's Ohio Code Annotated* the present volume offers, it is true, relatively little additional coverage, inasmuch as it is reprinted, with minor additions and improvements, from the lifetime edition of that private publication. Yet the convenience of having all pertinent material in the one compact volume will for many code owners easily balance the modest, cost-basis price at which it sells through the office of the Tax Commissioner; while for others who must concern themselves with the intricacies of the state's taxing system, it will be a "must" book.

Those responsible for the publication of the present volume would be the first to acknowledge its limitations. Like the work from which it is taken, it is, in the parlance of legal bibliography, only a compilation of the tax statutes now in force, arranged in the sectional sequence first employed in the official Ohio "code" of 1910. Even the 1910 displacement of the old Ohio Revised Statutes was not a true codification in the continental sense of a Code Napoleon. It was, however, a consolidation of existing Ohio statutory provisions, rewritten and reenacted to constitute an integrated, related body of legislative-made law, which in the American terminology is regarded as codification. What the Ohio taxing statutes need, buffeted as they have been by legislative changes great and small over a period of thirty years, is a re-treatment of this order, comparable to the task only

recently completed for federal taxation in the Internal Revenue Code. Much of the task would involve formal rearrangement of sections and portions of sections—for instance, the incorporation into the substantive tax provisions of the division of power between tax commissioner and board of tax appeals, the segregation of the inheritance tax to end its anomalous reign between the statutory definitions of taxable and of exempt property for property taxation, the grouping together of all definitional provisions relating to property taxation even though, as with the present § 5388, the commingling of definitions with assessment rules would require the rewriting as well as the renumbering of sections.<sup>1</sup> Redrafting would of course be required to realize greater clarity and consistency in such provisions as those which outline the basis for Ohio taxation of intangible personalty,<sup>2</sup> define taxable credits,<sup>3</sup> or delineate the nature of the interest in land which is conveyed under foreclosure proceedings for tax delinquency.<sup>4</sup>

A comparable revamping of the tax annotations would yield similar dividends in clarification. Thus *Anderson v. Durr*<sup>5</sup> continues to be annotated under Ohio General Code § 5325 despite the fact that changes in that section's wording since this decision clearly exclude the taxability under it of stock exchange seats. So of judgments not the consequence of business activity; the 1933 contraction of § 5327 excludes them, and yet the annotation of *Cameron v. Capeller*<sup>6</sup> thereunder carries at least an inference to the contrary. Both types of intangibles are today taxable under § 5327-1. By § 5328-2 the taxability of certain intangibles used in business is predicated on situs rather than owners' domicile; yet under § 5328, *Tax Comm. v. Kelly*

<sup>1</sup> Compare the new OHIO GEN. CODE § 5388-5, which fixes a 50% rate for all personalty of rural electric companies as defined in § 5321. Most, but not all, of the definition of manufacturer for § 5388 is to be found in § 5385. Cf. *supra* this issue, at p. 230.

<sup>2</sup> OHIO GEN. CODE §§ 5325-1, 5328-1, 5328-2, 5366, 5368. For discussion of the problem of the situs of intangibles "used in business," see Bachman, *Business Situs of Intangible Property of Ohio Non-Residents* (1932) 6 U. OF CIN. L. REV. 103; Evatt, *Administrative Policies and Problems of the Tax Commissioner* (1941) 14 OHIO BAR 568. Nor, with § 5328-1 predicated taxation of intangibles primarily upon residence as broadly defined in § 5373, is it clear to what extent intangibles held on tax day or by July 1 are subject to taxation on a theory of situs when not used in commercial enterprise.

<sup>3</sup> The present uncertainty over the proper interpretation of § 5327 is vividly portrayed in the recent case of *Black-Clawson Co. v. Evatt*, 139 Ohio St. 100, 38 N. E. (2d), 403 (1941). See the annotation of the case *supra* this issue, at p. 234.

<sup>4</sup> Compare OHIO GEN. CODE § 5724, with *id.* § 5688. See *Leatherman v. Maytham*, 66 Ohio App. 344, 33 N. E. (2d) 1022 (1940).

<sup>5</sup> 100 Ohio St. 251, 126 N. E. 57 (1919).

<sup>6</sup> 41 Ohio St. 533 (1885).

*Springfield Tire Co.*<sup>7</sup> is annotated to the proposition that "credits are taxable only when they are property of persons residing in taxing state . . ." Against the quite different statutory background that obtained eleven years ago, this conclusion was not without basis; the danger lies in present-day reliance upon the *Kelly-Springfield* case as an authoritative determination on fixation of taxable situs. Although the taxability of residents' intangibles is declared by § 5328-1, whereas § 5368 merely fixes tax day, by far the greater number of the earlier Ohio cases defining the scope of such tax liability are entered under the later section. While this is not serious, it adds further demonstration to the possibilities in a complete "restatement"—statutory and case—of Ohio tax law.

Such a task would be a most ambitious one; it was out of the question as a fulfillment of the modest requirement carried in § 5624-6. Only if the demand for the present offering appears to warrant the expense and effort involved, will there be likelihood that the greater undertaking will ever come to realization. In two respects, however, the value of the present volume could have been enhanced with less effort. Such constitutional provisions as Art. I, § 2; Art. II, § 22; Art. VIII, §§ 1 and 6; and Art. XVIII, § 12, might well have been included with those sections that are reprinted; for these provisions are in one way or another significant to the exercise of state and local levying or borrowing powers. More important would have been the inclusion of the administrative sublegislation which the tax commissioner is authorized to promulgate by Ohio General Code § 1464-3 (13). Rule 2, involving the much-disputed question of the proper designation for taxation of oil refiners' equipment, has only recently been reviewed before the Board of Tax Appeals, as per § 1464-4.<sup>8</sup> But all such rules, whether reviewed or not, are as essential to careful practice in state tax matters as are the federal regulations to federal tax practice. It would have been in keeping with the increased emphasis upon the ready availability of administrative legislation, like administrative adjudication,<sup>9</sup>

<sup>7</sup> 38 Ohio App. 109, 175 N. E. 700 (1931).

<sup>8</sup> *Zangerle v. Evatt*, 22 Ohio Op. 344 (1941), *appeals dismissed*, 139 Ohio St. 563, — N. E. (2d) — (1942), Rule 217 was invalidated in a like proceeding, in *Pioneer Steamship Co. v. Evatt*, 18 Ohio Op. 510 (1940).

<sup>9</sup> Official publication of the decisions of the Board of Tax Appeals is contemplated at an early date. They are now sporadically reported in the private Ohio services.

to have incorporated the commissioner's rules into the volume under review.<sup>10</sup>

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BLACKSTONE'S COMMENTARIES ON THE LAW. *Edited by Dean Bernard C. Gavit. Washington Law Book Co., Washington, D. C. 1941.*

In the early part of the eighteenth century, Mary Bigg, the daughter of Lovelace Bigg, a member of the landed aristocracy, married a common tradesman. Her husband, Charles Blackstone, was but a silk merchant living in Cheapside. From this union was born a child, William Blackstone, who rose from his poor surroundings to become a professor in one of England's largest universities, a Knight of the realm, and a justice of the King's courts of that country.

It was during Sir William's years as a professor of law at Oxford University that the groundwork for his *Commentaries on The Law* was formulated. They originated in the course of lectures repeated every year for fifteen years, and at the end of that time were published with such success that Blackstone realized over eighty thousand dollars from the publication—and this a book of law. Blackstone was the first to give the law the air of science. "He found it a skeleton and clothed it with life, color and complexion. He embraced the cold statue and by his touch it grew into youth, health and beauty."

Influence of the *Commentaries* in training and inspiring American statesmen can not be accurately measured. For over 150 years it was a "first" book for lawyers, students, scholars and the cultured public. This book was the turning point in the lives of John Marshall, Daniel Webster and many others. Sixteen signers of the Declaration of Independence knew it from cover to cover. Abraham Lincoln found a copy in a barrel—and it changed his life, and the life of our nation. 73 editions in English, 56 in French, 11 in German, 9 in Italian; editions in most every language including the

<sup>10</sup> The added cost involved in including the rules and their rather tentative character have been assigned by the commissioner as reasons for failing to add them as above suggested.

Sales and use tax in Ohio is administered by the Ohio Department of Taxation (DOT). Any sales tax collected from customers belongs to the state of Ohio, not you. It's your responsibility to manage the taxes you collect to remain in compliance with state and local laws. Avalara Licensing can help you obtain your Ohio business license and sales tax registration. How to register for a seller's permit. You can register for a Ohio seller's permit online through the Ohio Department of Taxation. To apply, you'll need to provide the department with certain information about your business, including but not limited to: Business name, address, and contact information.

3. File tax forms with the Ohio Department of Taxation and the Department of Job and Family Services, typically on a quarterly basis, and with the IRS in April, June, September and January. With these filings, employers remit (pay) the employee taxes withheld and the employer taxes accrued.
4. At the end of the year, prepare and file Forms IT-941 and IT-3 with the Ohio Department of Taxation. Additionally, prepare Form W-2 and distribute to each employee, file Form W-2 Copy A and Form W-3 with the Social Security Administration and file a Schedule H with your personal income tax return. The state of Ohio, as well as city governments, may supplement federal law with additional state and municipal labor laws. Minimum Wage. Minimum wage in Ohio is currently \$7.25 per hour.