

1961

Survey of Tax Literature: Final Examination (January 27, 1961)

William & Mary Law School

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1. Surrey is quoted as saying that "taxation mirrors the times." Illustrate this by citing the taxation of an object, such as carriages, slaves, profits, TV sets, etc., which typify the time such taxes were imposed by virtue of either the systems of commerce known at the time, cultural or social conditions, technological knowledge, or general economic or political situations. Cite six different objects of taxation, other than those mentioned above, and indicate briefly why they typify the period of their existence.
2. In your reading assignment in Buehler's "Public Finance", you read the following statement: "An analysis of the economic processes set in motion by the collection of taxes reveals that some taxes tend to remain with the person paying them to governments and other taxes tend to be transferred." Please explain this statement by citing 3 types of taxes which tend to remain with the "taxable entity" paying them, and why; and, 3 types which tend to be transferred and why.
3. In your reading assignment covering each of the tax imposition sections of the 1954 Code, you observed that taxes were currently imposed on some 107 objects of taxation. Do you believe that the country has "outgrown" any of these either by way of economic, technological, or social advancement? If so, please indicate which taxes and in what respects?
4. Frequent references are made in tax literature to "tax policy". Please indicate your concept of the term "tax policy" by citing three specific illustrations of new "tax policies" underlying provisions incorporated in the 1954 Code.
5. What are the chief sources of influence in this country which help to determine our "tax policies."
6. Treasury Regulations are of three types (a) procedural (b) interpretative, and, (c) legislative. Give a brief example of each type (specific section references are not required).
7. Interpretative regulations are generally referred to as reflecting "interpretative policy of the Treasury." What is meant by interpretative policy? Please illustrate by an example from the regulations interpreting sec. 213.
8. You have observed that section 213 extends to a wide variety of forms of disease treatment and prevention -- thus in time, potentially infinite. Witness for example, the statement on page 115 of "Your Federal Income Tax for 1961", "Your doctor has prescribed 2 ounces of whiskey to be taken by you twice a day, for relief of angina pain resulting from a coronary artery disease. The expenses you incur for the prescribed amount of whiskey is a deductible medical expense." This example like all others in regulations and published rulings, begets more examples. The dilemma - Should official regulations and rulings be limited to a few basic principles - and thus because of official silence as to details cause some who may be entitled to the deduction to lose it because of absence of suggestive examples; or, continue to add examples to an already over-burdened area of tax literature? If you were in charge of interpretative policy, what would you do? (In your answer, please keep in mind, (a) fairness to the taxpayer, (b) Congressional desire for more published rulings (c) impossibility of covering every detailed factual situation (d) added work in correcting erroneous returns due to absence of full instructions (e) transitory nature of types and techniques of medical treatment and (f) other factors which may occur to you).

9. In the case of highly obscure tax provisions some believe that the Treasury should forthwith attempt to bring order out of uncertainty by boldly issuing regulations to the best of its interpretative ability at the very grave risk of having them overruled -- while others feel that the Treasury should wait until a few cases have been decided by the Courts. Considering the weight and importance of regulations in tax literature as well as other factors surrounding the place occupied by regulations in the tax field please comment on the pros and cons of these two views.
10. If you are given a tax question by a client concerning the tax effect in a situation in which he wishes to tear down a garage on apartment house property owned and operated by him and construct a new garage in the basement of the apartment house -- please set forth in detail how you would research his question in either CCH or P-H. (Only one required)
11. In this course you have dipped into the main body of every source of tax literature for the purpose of learning its nature and use. Assuming sufficient money -- but no impractical or wasteful expense -- please indicate specifically by general publication title the volumes, or sets of volumes, which you feel you should have to engage in a fairly broad range of tax practice. (This is in addition to a general law library)
12. Based on Harrington's summary and other assigned readings, what would you say are the chief tax issues of our day?