

BOOK REVIEW

ASPECTS OF PHILIPPINE TAX LAW PROCEEDINGS, ed. Florida Ruth P. Romero and Sixto J. de Guzman, Jr. Quezon City, Philippines: University of the Philippines Law Center, 1965. 259 pp. Reviewed by Attorney Benjamin V. Abela.

This book is a compilation of the lectures and discussions of the Annual Institute on Tax Law of the University of the Philippines Law Center, held from December 9 to 11, 1965. It includes lectures on administrative tax procedure, tax treatment of corporate profits, tax treatment of pre-operating expenditures, and conflicts of jurisdiction in taxation. Also included is a critical review of the 1964 and 1965 decisions of the Supreme Court on taxation. The lecturers are persons whose education and experience qualify them to speak on their respective topics.

In his lecture on "Administrative Tax Procedure," Bureau of Internal Revenue Deputy Commissioner Ambrosio Lina looks into the BIR system of revenue collection and discusses the administrative procedure on income tax, from the filing of income tax returns to the action for refund of internal revenues taxes erroneously or illegally collected.

The Tax Code provisions on prescriptive periods in the assessment and collection of internal revenue taxes are among the chief bases of tax litigation. Commissioner Lina gives a very enlightening exposition of these provisions by making references to pertinent decisions of the Supreme Court.

Lecturing on "Tax Treatment of Corporate Profits," Jose Arañas, former Commissioner of Internal Revenue, enumerates the corporations subject to income taxes. He offers an illuminating discussion of the historical development of our laws on dividends which, he says, were developed from capital impairment and dividends from profit rules which are of Anglo-American origin. Arañas proposes the abolition of the capital gains tax, provided that the one who realized the capital gain must invest it, within one year, for industrial, agricultural, and commercial purposes. This would result in the establishment of more factories and other business concerns and would thus mitigate the unemployment situation.

The term "pre-operating expenditures," as used in the lecture on "Tax Treatment of Pre-operating Expenditures," applies to a great variety of costs incurred from the time a business enterprise is launched up to the time it is

ready to produce income. There is no statutory basis for the treatment of pre-operating expenditures in the Philippines, but there is a Bureau of Internal Revenue ruling that pre-operating and organizational costs be accumulated in a capital account and amortized over the lifetime of the corporation. It is proposed that, since the tax liability is minimal and the present tax rates are stable, businessmen should be allowed to amortize such costs over a relatively shorter period than that allowed by the BIR ruling.

Speaking on 'Conflicts of Jurisdiction in Taxation,' Atty. Mateo A. T. Caparas expresses preference for the term "conflict of jurisdiction" to the term "conflict of laws." He discusses the "protective theory" of taxation, the following of which results in inequality in the treatment of non-resident aliens doing business in the Philippines. Such aliens, by their very absence from this country, receives less protection and benefits, yet the rates of income tax they must pay are higher than those imposed on residents and citizens. Aside from this, non-resident aliens may not use foreign taxes as credits against Philippine income taxes. Thus, they are often subject to double taxation due to conflict of jurisdiction.

Professor Perfecto Fernandez has done an incisive analysis of the 1964 and 1965 decisions of the Supreme Court on questions of taxation. He expresses disagreement with some of these decisions, but, whenever possible, he attempts to reconcile conflicting decisions. His disagreement is always supported by cogent reasons.

This book is an important addition to our meager collection of local books on taxation. It is easy reading and would be especially valuable to the layman. On the whole, it should do much towards enriching our knowledge of the legal and practical aspects of taxation.