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Book Review

*Reviewed by Lawrence R. Bloomenthal**

THE GREAT TREASURY RAID, by Philip M. Stern. Published by Random House, New York, 1964. 361 pp. \$5.95.

With the zeal of an evangelist denouncing sin, Philip Stern attacks the immorality of our existing unequal federal tax system. Stern contends that the lower the income, the higher the effective rate and the more pressing the burden upon the less privileged taxpayer. He cites many actual instances in which wealthy individuals reaped incredible benefits through special exemptions or provisions tailored to their particular needs and inserted into the tax bills as general law.

Stern argues that if special relief is to be granted to any taxpayer or group of taxpayers, Congress should declare its intentions in a specific relief measure rather than by inserting vaguely worded sections into the tax code which may later be stretched to apply to other situations not originally intended to be covered. Were all of the inequities denounced by Stern to be removed from our present tax laws, he estimates that the Treasury would gain some \$40,000,000,000 a year!

Chapter headings are provocative: Chapter I, "The Tax Deviates," discusses the impact of special tax preferences and the so-called "loophole" provisions by which the very rich escape a substantial portion of their income taxes. Chapter III reveals the means by which a \$2,000,000,000 tax savings was granted Louis B. Mayer at the time of his retirement from Metro-Goldwyn-Mayer.

In "Your Wife May be Worth a Million," Stern maintains that the tax savings value of a wife is equal to the amount which would have to be invested to produce the income saved by taking advantage of the split-income provisions of the income tax laws. It is easy enough to calculate that if the filing of the joint return will save \$400 annually in federal income taxes, one's wife has an economic value equivalent to the sum which would have to be invested at a conservative 4 per cent rate of interest

* Of the Ohio, Iowa and Illinois Bars, US Treas Dept, IRS, Office of Chief Counsel, Washington, DC, 1940-41; Trial Attorney and Assistant Counsel, Office of Chief Counsel, Cleveland, Ohio 1941-50; etc.

compounded semi-annually to produce this return. By extending the illustration, Stern is able to prove that one's wife may be worth at least a million dollars to an individual whose income is in the upper brackets.

Doctors, lawyers, dentists, and other professional men should be especially attracted to Chapter V, "The Great Capital Gains Trial." Picking out the obviously weak spot in the structure of our federal income tax law, Stern concentrates on the proposition that there should be no automatic virtue in holding a security or other capital asset, as defined for tax purposes, for a period of six months or longer. Under prevailing law, the lapse of exactly six months and one day from the date that a stock was purchased automatically reduces the tax rate applicable to any profit made on its sale to a maximum of 25 per cent. Yet, had the same security been sold by the same owner, even to the same purchaser, one day before the six months period expired, the gain would have been taxable at ordinary income rates and might well have resulted in pushing the taxpayer into a higher bracket.

Repeatedly, Stern emphasizes that the business economy is not helped directly by the activities of those who purchase securities and hold them for just over the six months period simply to take advantage of the lower tax rates applicable to capital gains. He contends that business would not be affected one way or the other by changing the requirement for capital gains so that the holding period might be extended to perhaps two or three years or the special capital gains provision eliminated entirely. Stern disagrees with the present philosophy that such lower tax rates encourage investment and risk taking, and many experienced tax practitioners are inclined to agree with his viewpoint. On this one type of preferential taxation alone, he estimates that \$20,000,000,000 in taxable income annually escapes the reach of the tax collector.

Attractive as the reform measures in *The Great Treasury Raid* may appear, even the author himself is forced to admit in his chapter "Old Loopholes Never Die" that the possibility of immediate and drastic reform is very unlikely. Oil depletion allowances, for example, have been denounced by the late President Kennedy and his economic advisors as well as by consumer and other interested groups. Yet, all attempts to repeal or reduce the 27½ per cent special deduction have been defeated by pres-

sure interests without such a proposal ever being brought to a vote in Congress.

Moreover, "worthy" causes would rise in bitter protest were their benefits to be withdrawn. These would include veterans' pensioners, recipients of social security, beneficiaries of life insurance policies, and others now entirely exempt because of their special status. Along with wealthier individuals, these persons would be denied preferential treatment if Stern's proposals were adopted. Instead, he advocates a direct subsidy by outright appropriation bills subject to periodic review and scrutiny. This Mr. Stern feels would be a more direct and honest approach.

Although neither a lawyer nor accountant, Stern has relied upon highly competent technical and legal sources. His writings have appeared in "Harper's," "The New York Times Magazine," "The Reporter," and "The New Republic." His style is easy, readable and provocative; it simplifies a difficult and complex subject. *The Great Treasury Raid* is recommended reading for both the tax technician and the general practitioner—but with appreciation for the practical difficulties of establishing equitable tax laws where the rich and the modest alike benefit by similar exemptions.