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Book Review

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*Reviewed by Gerald M. Ozan**

FEDERAL TAX FRAUD LAW, by Ernest R. Mortenson. Published by Bobbs-Merrill Co.; Indianapolis; 312 pp.; 1958.

This book is a comprehensive work, taking the reader on a step-by-step trip through an income tax investigation from its very beginning through the trial of the criminal case and finally through the civil settlement and collection procedures. Yet it is not forbiddingly long and involved. As stated by the author, "like cancer patients, taxpayers in trouble with the Internal Revenue Service too often seek professional help after it is too late to hope for a cure."

Of primary interest to the average lawyer will be the analysis of the evolution of a tax fraud case, as it indicates just where representation and legal counsel do the taxpayer the most good. The book examines the Constitutional privileges of the taxpayer, primarily the Fourth and Fifth Amendments. It also shows what the elements of a tax fraud case are, and the degree and kind of proof needed to make out a good case. In this respect both indirect and direct evidence can be expected to be used. The author shows the chief problem areas and the chief troubles that are likely to arise. He goes into great detail about the trial of the criminal case. He also makes clear the great value of preparation in conjunction with a qualified accountant. This is very important, due to the crucial nature of accounting evidence in such cases.

Civil penalties imposed by the Government are very severe. While the burden of proof is somewhat lighter than that in a criminal action, clear and convincing evidence must be shown. The author discusses the defenses which are often used in order to prevent assessment of civil fraud penalties.

This book contains numerous citations which are very useful to the attorney, and they are the latest available. The book is certain to be of great value to any lawyer with a client involved in income tax troubles.

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