

Book review

1 MCCUTCHEON ON INHERITANCE TAX

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Publisher: Sweet & Maxwell, fifth edition, hardback, £235

As the preacher says 'of making many books there is no end; and much study is a weariness of the flesh' (Ecclesiastes xii 12). *McCutcheon on Inheritance Tax* has always been an exception. Since it was first published as 'Understanding and Planning for Capital Transfer Tax' in 1980 it has been a model of what a tax practitioner's text should be: comprehensive and authoritative. It has been so well organised and so clearly expressed that a non-specialist would have been better served consulting it than some of the shorter texts specifically aimed at the non-specialist. Experts have found in it a text which went beyond exhaustively summarising the relevant legislation, case law and HMRC publications, one which discussed difficult areas of construction and the practical implications of the tax. The fifth edition was published at the end of last year. It is the first edition in the preparation of which Barry McCutcheon has not been involved. How does the new edition measure up to its predecessors?

In short, it maintains their excellent standards. The discussion of the reservation of benefit provisions for example, explains the structure of the provisions and the three 'hurdles' which must be cleared if they are not to apply. It admirably summarises not only the relevant case law concerning the application of inheritance tax (or its predecessor capital transfer tax) but also the preceding case law on estate duty to the extent that it is relevant.

It is interesting that the authors see the decision in *CIR v Eversden and another* [2003] STC 822 as establishing a principle of wide importance. Their conclusion that FA 1986, Sch 20 para 5 (settled gifts) is concerned with property comprised in a gift which becomes settled property and not with the interests in the settled property is clearly correct and is not one which HMRC have yet fully absorbed.

Their discussion of the meaning of 'full consideration in

money or money's worth' in Sch 20 para 6(1)(a) (the full consideration exemption) takes full account of the many practical difficulties which that exemption presents, particularly in relation to assets such as country house chattels or valuable works of art for which there is no meaningful rental market. The authors note that the provisions of Sch 20 para 5(4) (concerning loans to trustees) can result in double taxation, as can the gift of property to a company followed by a gift of shares in that company. It is this sensitivity to the traps which the legislation can lay which is a considerable part of the value of the book.

The book is willing to step outside the strict boundaries of its subject where it is necessary. The pre-owned assets charge is a charge to income tax not inheritance tax, but the authors sensibly consider that as its function is to prevent the avoidance of inheritance tax it would be artificial not to consider it in relation to reservation of benefit.

I have, therefore, no hesitation in recommending the fifth edition to any practitioner who deals with inheritance tax. No book, however, is perfect. In places it is clear that the authors have attempted to take account of the FA 2006 changes to the treatment of life interests by simply adding a sentence or two at the end of a discussion brought forward from the previous edition where a more fundamental rewriting was required.

It is often the most basic questions which are the most difficult to answer and a willingness to engage with such questions is a mark of a really first-rate book. I would hope that in any future editions, the authors will explain why the deemed transfer of value on death receives the exemptions which would have applied to the deceased's dispositions under his will had they been transfers of value.

McCutcheon remains the best practitioner text on the subject. Any practitioner who advises on inheritance tax will find the price of the volume to be money well spent.

Reviewed by Simon McKie, McKie & Co