



1-1-1983

## Books Received

Santa Clara Law Review

Follow this and additional works at: <http://digitalcommons.law.scu.edu/lawreview>



Part of the [Law Commons](#)

### Recommended Citation

Santa Clara Law Review, Other, *Books Received*, 23 SANTA CLARA L. REV. 711 (1983).

Available at: <http://digitalcommons.law.scu.edu/lawreview/vol23/iss2/10>

This Other is brought to you for free and open access by the Journals at Santa Clara Law Digital Commons. It has been accepted for inclusion in Santa Clara Law Review by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact [sculawlibrarian@gmail.com](mailto:sculawlibrarian@gmail.com).

## BOOKS RECEIVED

**Taxation of Real Property Transfers.** By John J. McGregor. Berkeley, CA: California Continuing Education of the Bar. 1981. Pp. xii + 418. Hardcover. \$80.00.

A new admittee to the California bar or an attorney whose practice specializes in matters other than real property transfers will find this book a valuable resource in advising individual or corporate clients who are contemplating the disposal or acquisition of real property. This guide does not attempt to make the reader a real estate tax specialist; it cannot. It offers, however, a comprehensive review of the principles of income taxation and their significance with respect to the various events which take place during the acquisition and disposal of property. In Part One, the authors open with a brief section setting forth preliminary consideration for both the buyer and the seller, and direct the reader to more specific sections within the two main discussions of the book. Part Two deals exclusively with the acquisition of real property. A lengthy discussion of basis, the analyst's starting point in evaluating the tax consequences of a transfer, takes the reader through several kinds of exchanges (purchase, exercise of purchase option, exchanges, cancellation of indebtedness, gift, and devise). Throughout the examination of the tax significance of the various forms of ownership, the reader is assumed to be thoroughly familiar with real property transactions and financing law. At least half of the acquisitions section is devoted to a detailed description of the ways property is held (individual ownership, co-ownership, partnerships, corporations, subchapter S corporations, and trusts) in light of applicable state and federal tax regulations and case law.

Another segment of this guide concerns the disposition of real property, introducing the complex rules associated with the concepts of gain and loss. Major discussions focus on capital gains, investor and dealer property, and property used in trade or business. A second major subsection explores the various devices associated with the deferral of gain or loss real-

ized in a sale in order to maximize favorable tax treatment and minimize adverse tax consequence, of income. A final subsection draws together tax considerations in transfers which have dual characteristics such as transfers in part gift and in part sale or sale and leaseback.

The guide presents both federal and state tax schemes as developed through statute, revenue rulings, and case law. The only shortcoming of this volume is that the cutoff date for statutory development was July, 1981, which eliminated discussion of the changes to the law brought about by the Economic Recovery Tax Act of 1981 (ERTA). However, the authors anticipated the need for further treatment of ERTA and quickly prepared a supplement dealing with the new statutory scheme (McGregor, J. and Hargrove, J., *Taxation of Real Property Interests, Supplement 1982.*)

**Taxation of Real Property Interests, Supplement 1982.** By John J. McGregor. Berkeley, CA: California Continuing Education of the Bar. 1982. Pp. xiv + 57. Softcover. \$16.00.

No discussion of the tax consequences of real property transfers is complete without attention given to the Economic Recovery Tax Act of 1981 (ERTA) (Pub. L. 97-34, 95 Stat. 172). One of the major changes brought by this act was the replacement of depreciation with a new system of cost recovery for property placed into service after 1980. ERTA altered rules concerning property transferred within three years of the donor's death, capital gains rates, and the rollover period between sale of a home and acquisition of a new one for non-recognition under IRC section 1034. Temporary provisions concerning wraparound mortgages and installment reporting were added. These and other changes in case law are competently described in this supplement. The original edition, published in 1981, must be read together with this supplement for the practitioner to make sense of the complexity of real property taxation law. The CEB plans to update this guide in 1983.

**Constitutional Limitations on Criminal Procedure.** By Richard B. McNamara. Colorado Springs, CO: Shepard's/Mc-

Graw Hill. 1982. Pp. xxviii + 419. Hardcover. \$70.00.

Most students of constitutional law agree that it is frequently impossible to predict what the United States Supreme Court will do when presented with a constitutional issue, no matter how clear the precedent. This volume attempts to track the development of judicially fashioned federal case law, particularly over the last twenty years, in order to clarify a basic framework for what the author refers to as the elusive constitutional code of criminal procedure. To further complicate matters, federal constitutional claims may be raised in state criminal proceedings where federal constitutional limitations have been held by the Supreme Court to be applicable to the states. Moreover, a number of state courts have taken a more activist view than the current Court toward the regulation of criminal procedure premised on both state and federal grounds. As a result, the case law surrounding criminal procedure is voluminous and not all together consistent. The practicing attorney will find that this succinct reference work cogently states the law and provides a strong foundation for more detailed research into both decisional law, treatises, and law reviews. The topics of twenty chapters are chronologically divided among the various stages of a criminal prosecution: search, arrest, bail and pretrial restraint, right to counsel, motions to suppress, sentencing, and release are only a few. The common law roots of modern practice are frequently presented to add further substance to the reader's understanding of the constitutional dimension of criminal procedure. Leading cases are analyzed in detail, with frequent comparisons of disagreeing justices' views set out for the reader's own analysis. The reader will also happily discover that the scholarly level of analysis and preparation of this work approaches the level of a hornbook or treatise without muffling the directness or precision of the presentation of modern law.

Acknowledging the difficulty of reconciling many of the inconsistencies found in this area of the law, the author demonstrates that with careful historical research and detailed analysis of case law, it is possible to delineate trends in the law. This volume is a gold mine for the practitioner, particularly the private defense attorney who wishes to find without undue delay the state law in light of critical constitutional doctrine.

**Patent Information and Documentation in Western Europe: An Inventory of Services Available to the Public. (2d Revised and Enlarged Edition)** ed. by H. Bank, M. Fenat-Haessig, and M. Roland. Munich, Germany: K.G. Sauv. Gale Research Co., Detroit, Mich., Exclusive Distributor. 1981. Pp. 268. Hardcover. \$55.00.

Attorneys who counsel technology development and/or licensing firms, inventors, venture capitalists, and others involved with the transfer of technology abroad will find this well organized guide to be a wealth of detailed information about the way patent informations and documents are classified, published, and stored by the government patent offices of Western Europe, Japan, the Soviet Union, and the United States. Not only does this book offer specialized information necessary for the patent researcher or potential patent applicant to gain access to the repositories of registration information in most of the major industrialized markets of the world, but it also describes access procedures for three world organizations which administer international patent agreements and several non-governmental associations which operate to promote the exchange and improved accessibility of patent documentation and information. A typical entry for a particular national patent office provides its correct name, address(es) and telex(es), the statutory or administrative authority of the office, a brief description of the staff and its duties, a complete description of documents associated with patent applications and grants including reproductions of representative documents, a detailed list of periodicals published by the office, their sources and prices, details of the patent indexing system, locations of publicly accessible libraries of the office(s) and the materials available therein, and other official and private abstracting services available within the nation. This guide can save a busy practitioner valuable time and effort by making available services of the various intellectual property registries around the world by a call or letter.