

2-1934

## The Theory and Practice of Modern Taxation, by William R. Green

Robert C. Brown

*Indiana University School of Law*

Follow this and additional works at: <https://www.repository.law.indiana.edu/ilj>



Part of the [Taxation-Federal Commons](#), [Taxation-Federal Estate and Gift Commons](#), [Taxation-State and Local Commons](#), and the [Tax Law Commons](#)

### Recommended Citation

Brown, Robert C. (1934) "The Theory and Practice of Modern Taxation, by William R. Green," *Indiana Law Journal*: Vol. 9 : Iss. 5 , Article 8.

Available at: <https://www.repository.law.indiana.edu/ilj/vol9/iss5/8>

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact [rvaughan@indiana.edu](mailto:rvaughan@indiana.edu).



**JEROME HALL LAW LIBRARY**

INDIANA UNIVERSITY  
Maurer School of Law  
Bloomington

## BOOK REVIEWS

*The Theory and Practice of Modern Taxation*, by William R. Green—Commerce Clearing House, Inc.—1933—Pp. vii, 286.

It is an act of some temerity for a mere lawyer to review this book, which is avowedly and actually written from the standpoint of economics rather than law. The point of view of the book is practical rather than theoretical and it may also be noted that it pretty clearly favors the government in all doubtful points. For example, the author is distinctly adverse to consolidated returns by corporations, which he considers are used largely for the purpose of improper tax evasion. But he suggests that the law be amended so as to permit the Commissioner of Internal Revenue to require consolidated returns whenever he thinks it advantageous to the government to do so. Whether the Courts would sustain this "heads I win—tails you lose" theory is rather doubtful; certainly it would be extremely unfair. The author also feels that the government should not be subject to any statute of limitation whatsoever in collecting taxes—a suggestion which seems to the present reviewer little short of outrageous. But perhaps it is well to have a book of this sort written from the standpoint of a government official, as we have a great many books written by taxpayer representatives.

In view of its comparative brevity the book is extremely complete. It covers the Federal taxes in considerable detail and also treats of many of the problems of state taxation briefly but quite adequately. There is also some discussion, which is valuable for comparison, of the important features of the taxation systems of some European countries.

As already stated, the book is primarily economic in its outlook. At times, however, the author is not adverse to taking a somewhat legalistic position, especially when it is favorable to the government, as for instance when he asserts that a tax on corporations and also on the dividends received from their stock is not double taxation. This is certainly true legally but may be questioned from an economic standpoint.

A more general criticism which may perhaps be made is that the author is on the whole too optimistic. He is quite convinced that taxation is today more efficient and more just than it has ever been before; an argument which would certainly sound peculiar to the taxpayers of Chicago and probably a great many other localities. More specifically, he tends to minimize the serious drying up of tax sources during times of depression, and makes the rather naive suggestion that all that is necessary to solve this difficulty is to raise the rates of income and inheritance taxes.

Again he does not seem to give sufficient regard to the unfortunate effects, particularly in times of financial stringency, of tax exempt securities. He admits that such securities do hamper the effectiveness of high surtax rates but he largely ignores the effect of such tax exemptions in encouraging undue borrowing by governmental units, particularly states

and municipalities. This seems to be one of the most serious problems confronting us at the present time.

Other arguments in favor of the existing system seem subject to similar observations. For instance, the author defends the income tax on the profits on the sale of capital assets by referring to the large revenues from these sources before 1929. It is probable that the Federal government and the states imposing such an income tax have lost as much or more revenue from this source during the depression. He also contends that the Federal gift tax is no harder to collect than the Federal estate tax, but the experience of the government with respect to the previous gift tax seems to rebut this argument. Finally the author admits that the present state taxes on intangibles are quite unsatisfactory and suggests as a solution a tax on intangibles at a lower rate; a solution which has recently been adopted by Indiana. The solution is undoubtedly a sensible one from the economic standpoint, but its legal validity under the common and unfortunate uniformity provisions of state constitutions is more than doubtful.

But all these criticisms and others which might perhaps be made do not affect the substantial merits of the book. We have here an excellent presentation of the whole tax problem from the economic standpoint and particularly from the standpoint of the necessities of the taxing jurisdictions—a standpoint which is certainly entitled to a hearing particularly in these times. The book points out a principle which is apt to be lost sight of by taxpayers—that simplicity and justice of taxes are very largely incompatible and that the undoubtedly unfortunate growing complications of modern tax statutes is necessitated by the endeavor to attain a larger degree of justice to the taxpayers. It is interesting also to note the author's showing that the English system of collection at the source has not worked as well as was expected and is particularly unjust to the small taxpayer. It may well be that the United States could profitably make larger use of collection at the source than it does, but the book demonstrates that this system also is not a cure-all of our tax difficulties.

An Indiana lawyer will notice that our state is not referred to as levying an income tax. Perhaps the author does not regard a gross income tax as an income tax at all—which is perhaps arguable.

On the whole the book is a very valuable one. If it is somewhat biased in its point of view it is no more so than most other books on the subject, which are biased the other way. While the book is primarily useful to legislators and perhaps administrators, it is nevertheless very worth while reading for any lawyer interested in tax matters.