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Book Review: Estate Planning for Canadians, by Jean Monet

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Estate Planning for Canadians. By JEAN MONET, Q.C. Assisted by STEPHEN D. HART. Toronto: MacMillan of Canada. 1975. Pp. xiv, 378. (No Price Given)

A number of hurdles confront the prospective author of a book on tax planning. They arise in part from the complexity of our tax legislation and the constant change in the pattern of federal and provincial taxation over the last ten years. A more fundamental obstacle is presented by the nature of the mental exercise involved. The author of a treatise on torts or contracts will be mainly concerned to indicate the results which occur when common law and statutes are applied to particular facts. In a work on tax planning the emphasis is on the acts which might be done and the transactions which might be entered into on the facts of hypothetical situations in the light of existing statutes and hypothetical non-tax objectives. There is thus both an additional question and an additional variable to be considered. Tax planning advice will be affected by slight variations in either the facts or the objectives and the utility of the work will depend to a large extent on the range of hypotheses presented. If the author attempts to cover the field by keeping the discussion at a fairly general level the work is likely to degenerate into a collection of platitudes and pious exhortations. At the other extreme the book can be so precise and so replete with variations in the facts

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and in the possible objectives that its technicality will render it intelligible only to a reader who is as familiar with the subject as the author.

Mr. Monet hit the first of the hurdles. The original version of his book was completed in 1971 shortly before the abolition of estate and gift taxation at the federal level. He persevered. The book was published in its original form and has now been extensively rewritten and updated to January 1975. It attempts successfully to outline the methods by which a taxpayer can so arrange his assets that he will be able to protect them and to benefit from them in his lifetime and ensure their disposition with the minimum erosion on his death. The methods most commonly used and the taxation consequences and implications of each are considered. The work is not, and was not intended to be, a treatise for specialist professionals. It is aimed at the intelligent layman but the level of discussion is sufficiently high to justify its use as an introductory work for students and practitioners.

The contents include a summary of the impact of capital gains taxation, succession duty and gift tax and there are chapters on lifetime gifts, the use of private companies, the methods of disposing of commercial and professional interests, deferred income plans, life insurance, wills, valuation, partnership of acquests and tax havens. In addition, there are many short but, generally, clear and accurate notes of cases, a few forms and a number of appendices dealing mainly with qualified investments for deferred income plans.

There have been some significant changes in the Income Tax Act and in the relevant provincial legislation since the work was published but these affect only a small part of the contents. Inevitably, also, there are a few statements with which one might take issue. Overall, it is a good book and one which deserves to be kept alive by regular supplements or new editions.

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