

# Book Review: Cases and Materials on Income Tax, by John G. McDonald

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Book Review

## Citation Information

Edwards, Stanley E.. "Book Review: Cases and Materials on Income Tax, by John G. McDonald." *Osgoode Hall Law Journal* 1.1 (1958)  
: 88-89.  
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol1/iss1/13>

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*Cases and Materials on Income Tax.* By JOHN G. MCDONALD. Toronto: Butterworth & Company (Canada) Limited. 1957. Pp. 695.

In recent years it has become increasingly important for lawyers to have a knowledge of income tax law. In working out most commercial transactions the income tax implications can be ignored only at considerable peril to the client. The form of a transaction is often as important as the substance from the standpoint of income tax consequences, and lawyers can only serve their clients properly by advising them and preparing documents in such a way that their clients will not be subject to unnecessary taxes. In these days of high tax rates there is practically no substantial transaction which should be undertaken without full consideration of its income tax implications. In addition, the number of income tax disputes which must be negotiated and litigated has greatly increased. In these circumstances it is natural that the subject of income tax has gained an increasingly important place in the law school curriculum.

While the Income Tax Act is the legislative instrument which must be interpreted and applied, the manner in which it is interpreted and applied will depend upon the case law and the approach to the problems which is taken by the Income Tax Appeal Board and the courts. As in many other legal subjects, an adequate understanding of income tax law cannot be obtained without a consideration of decided cases. Accordingly, the appearance of a first-class Canadian casebook in this subject is most welcome.

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The material in Mr. McDonald's casebook is arranged very conveniently and about as logically as is possible in the illogical field of income tax. The first chapter consists of an outline of the Canadian income tax system with sections on such topics as the scheme of the Income Tax Act, the rules of statutory interpretation, the organization of the Departments of National Revenue and Finance, and assessment and appeal procedure. In Chapters 2, 3 and 4, Mr. McDonald deals with problems of a general nature such as the determination of residence, the liability to tax of non-residents, the problem of distinguishing income from capital gains and questions relating to the deductibility of expenses. These are matters which are governed to a large extent by case law. Subsequent chapters deal with more specific questions which depend to a greater extent on the interpretation of the Income Tax Act. Important chapters are included on the taxation of shareholders, family income distributions, partnerships and syndicates, the relationship between tax law and accounting, and commercial tax problems. The final chapter relates to special provisions dealing with tax evasion and avoidance.

Throughout the casebook Mr. McDonald has included a large number of introductory notes and explanatory material. Some of these are extracts from articles and books written by others. A considerable number are excerpts from Mr. McDonald's own work on income tax. Generally speaking, these passages are extremely well selected and edited and are appropriately placed in relation to the case material. The "Discussion Notes" which appear at periodic intervals throughout the casebook are helpful in raising points for discussion and supplementing the decisions which are reproduced.

It is significant that a large number of cases appearing in this book were decided within the last two or three years. The Income Tax Act is subject to frequent amendment and Canadian income tax case law on the subject is in a stage of rapid development. Because of these factors new editions of this casebook will probably be required more frequently than if it dealt with one of the more static law school subjects.

A few decisions which this reviewer would like to see in the book are not included. One such decision is that of the Supreme Court of Canada in *Army & Navy Department Stores Limited v. Minister of National Revenue*, [1953] 2 S.C.R. 496. However, the decisions which are in the book are well selected having regard to their significance and thought-provoking qualities.

Mr. McDonald's casebook has been prepared with his customary thoroughness and imagination. In the opinion of this reviewer it is a substantial contribution toward improvement in the teaching of income tax in Canadian law schools.

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