

Michigan Law Review

Volume 53 | Issue 6

1955

Lore: How to Win A Tax Case

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Recommended Citation

John J. Raymond, *Lore: How to Win A Tax Case*, 53 MICH. L. REV. 901 (1955).

Available at: <https://repository.law.umich.edu/mlr/vol53/iss6/16>

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RECENT BOOKS

This department undertakes to note or review briefly current books on law and matters closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publishers' literature, and the ordinary library sources.

BRIEF REVIEWS

HOW TO WIN A TAX CASE. By *Martin M. Lore*. New York: Prentice-Hall. 1955. Pp. 244. \$6.50.

This book is one of the few of its kind attempting to present the entire procedure of the handling of a tax case. The author starts with the problems which usually create tax cases and proceeds to discuss all of the steps for handling the controversy at trial and even through appeal. Both tax counsel and general practitioners should derive some benefit from this book. However, one may differ with the author in his opinion that he has directed his book to comptrollers, accountants and other laymen who are in related fields. His treatment of the technical aspects of trial procedure, while seemingly clear to the lawyer, may leave much to be explained to those outside the legal profession.

The discussion with reference to avoidance of certain tax pitfalls is more academic than practical. Taxpayers in tax difficulties are usually unaware of such matters as establishing and preserving evidence, maintaining proper records, and similar protective measures. When these steps have been taken the author feels that the taxpayer has helped his tax case. Perhaps it would be more accurate to say that under these circumstances the revenue agent would hardly do more than merely question the transaction.

The review of settlement procedures, beginning with the audit by the revenue agent and continuing through the issuance of the ninety-day letter is quite complete. The author also attempts to advise the practitioner on the question of whether to file a petition with the Tax Court upon receipt of the ninety-day letter, or whether to pay the tax and file a claim for refund with its consequent suit in either the district court or the Court of Claims. His observation that judges of the Tax Court are usually more technical in the application of the law than judges of the other two forums is a conclusion in which most tax practitioners will concur.

Too often attorneys representing clients in the Tax Court have had little or no experience before this tribunal, and judges frequently criticize them for their lack of knowledge of the rules of procedure. Mr. Lore has done an excellent job in setting forth these rules in simple language. It would be fruitful study for the lawyer who ventures but occasionally into this court. Perhaps the discussion on "strategy and tactics" in the Tax Court trial should have been left to a more comprehensive treatment. It is doubtful whether a five-page

discussion is ample coverage. Even the reference to the handling of fraud cases is quite incomplete.

The law profession owes its gratitude to Mr. Lore for his attempt to crystallize problems and procedure in handling a tax case. His task was a formidable one and it is hoped that he will expand this first effort so that it will be more inclusive of the subject. Perhaps the future will produce other works which will follow this beginning with equally useful but more intensive studies of tax practice.

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