

BOOK REVIEW

Tax Law: An Introduction

Beric Croome (Editor)

Cape Town, South Africa: Juta. 2013, 627 p., ISBN 978-0-7021-9985-1, R525-00

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*Tax Law: An Introduction*¹ is a new addition to the Tax Law literature from Juta with the aim of filling the gap that exists in user-friendly textbooks for law students. The market is dominated by *Silke South African Income Tax*,² which is an excellent textbook, but more suitable for commerce students than law students. Any addition is welcomed with open arms at this stage; however, the question is asked whether this book succeeds in its stated objective.

The title of *TLAI* gives the impression that the reader is provided with an introduction to Tax Law enabling the reader to obtain a basic understanding of Tax Law. This corresponds with the editor's preface where he refers to the textbook as "an introductory textbook that deals with the fundamental principles of income tax".³ The book is indeed an introduction to income tax, but the title of the book is misleading as no reference is made to income tax. This is a substantial shortcoming, since this book can solely be used in courses dealing only with income tax. Various other basic taxes are excluded which are absolutely necessary for any law student's basic education in Tax Law, such as Value-Added Tax, Estate Duty and Donations Tax.

Tax Law is a complicated area of the law and students find it quite challenging. Over the past few years, the academic quality of students studying Law has decreased at a concerning rate, therefore increasing the need to have a textbook available that is user-friendly with an easily understandable text.

The book consists of fourteen chapters, more or less similar in number to the units covered in a semester course, with 627 pages in total.

Chapter one provides a brief description of the origin and historical development of taxation, which is interesting to read and a very good introductory chapter to the textbook.

1 Beric Croome (ed), *Tax Law: An Introduction*, (Cape Town: Juta, 2013) (hereafter referred to as *TLAI*).

2 Madeleine Stighling (ed), *Silke South African Income Tax*, (Durban: LexisNexis, 2014) (hereafter referred to as *Silke*).

3 See *TLAI*, vi.

Chapter two purports to explain the entire tax system in an insufficient short chapter with many shortcomings. The calculation of gross income provided is simply too basic to give a student a thorough understanding of how the following chapters fit into each other. Students are often lost in a tax course due to the abstract nature of the different sections covered in the course and it is, therefore, important to provide them with specific pointers and guidance to ensure that they fully comprehend and understand where a specific section fits into the whole course. In order to obtain this level of holistic understanding, it is imperative to use the gross income calculation as a basic framework to work from, with definite indications as to the various sections involved in a schematic exposition. This aspect is lacking from *TIAI* and negatively impacts on the user-friendliness of the textbook.

It is interesting to note that the authors chose to start off with the jurisdiction of tax in chapter three, without first providing the student with a basic understanding of gross income. This leads to unnecessary repetition in chapter four that deals with gross income. However, this chapter provides a beautiful exposition of the different tax treatments of residents and non-residents. The part of the chapter dealing with withholding taxes on non-residents is now outdated and needs to be updated. This is the usual problem with tax textbooks – due to the ever-changing nature of Tax Law, it is imperative to have a new updated edition every year, otherwise the textbook is rendered useless.

The ample use of case law in chapter four should be commended. Students tend to shy away from tax cases and integrating them with the text is an excellent way of overcoming this problem in the learning process. One aspect of tax education that is often missed is the ability of students to read and interpret tax cases. It would be prudent for the authors to take one tax case and to discuss that case in detail, together with practical pointers as to how students should approach reading tax cases. It is a pity that Oxford University Press is not venturing into the printing of tax material, since the format used in their textbooks is extremely user-friendly and ideally suited for the academic needs of current students.

Chapter five deals with exempt income and is an excellent summary of exempt income without too much detail that could confuse students.

Chapter six provides a thorough exposition of the general deduction formula of section 11(a) of the *Income Tax Act*⁴ read with section 23(g) of the *ITA*. The format of the calculations used as examples in amplification of the text could be much more user-friendly. The format used in *Silke* is recommended for this purpose. Tax Law is very detailed and complex. At the level of an introductory textbook to Tax Law, one would not expect the authors to address each and every provision contained in the *ITA* on a specific topic. Far too many specialised deductions and allowances are covered in chapter six – it is highly unlikely that all 52 of them will be included in a curriculum. It is recommended that only some of them

4 58 of 1962 (hereafter referred to as *ITA*).

be highlighted and discussed in more detail. The calculations used as examples in the discussion of pension fund contributions and retirement annuity contributions are simply not clear enough, with specific identifiable steps lacking, which are required in order for students to perform them without difficulty. It seems that examples and explanations in the text of this book come as an afterthought without sufficient emphasis, as opposed to what is required of law students without any financial background to fully comprehend and understand the subject matter.

The authors' judgement in including chapter seven in the textbook dealing with deductions and capital allowances should be questioned. The competency level of the work is too difficult for LL.B. students and one would expect this kind of speciality to be presented on postgraduate level in the legal fraternity or in a B.Com. degree where students are numerically apt and used to advanced calculations.

By contrast, chapter eight dealing with employees' tax and provisional tax is excellently written and provides an in-depth understanding of the concept of remuneration for tax purposes.

It is a relief to note that Capital Gains Tax is included in the book in chapter 9. Capital Gains Tax is an important part of a law student's tax education and cannot be neglected. The chapter is perfectly written, setting out all the basic principles of Capital Gains Tax without too much intricate detail. One would like to see examples and calculations in order to provide the student with the practical application of the principles involved. For this purpose, *Silke* must be consulted in addition to *TLAI*.

Chapter 10 of the book also provides an excellent basic exposition of tax principles relating to taxable persons. Once again, the absence of examples and calculations leads to an impaired learning process and the pedagogical soundness of the textbook stands to be questioned.

It is inconceivable to include intricate topics such as corporate reorganisations and dividends (chapter 11) in an introductory course to Tax Law in an LL.B. degree. It seems that the authors focused on being thorough rather than providing a workable textbook for law students. These concepts require detailed explanations amplified with various examples. As it is, the current text is impractical to prescribe. The whole section on secondary tax on companies is completely irrelevant and could be substituted with just a short explanation. Tax Law is extremely dense, and long discussions on outdated tax principles should be avoided as far as possible, otherwise students get confused and demotivated.

Chapter 12 provides information on administration, tax returns, assessments and dispute resolution. This is a very important chapter for law students and it is good to note that sufficient attention was given to this section. It is bothersome to notice that the text relates to theory only and that basic practical information, such as the existence of e-Filing on the website of the South African Revenue Service (SARS), is not even mentioned.

Tax avoidance and evasion is presented in chapter 13. The discussion on the general anti-avoidance rule as contained in section 80A-L of the *ITA* is concise and systematically explained. It is not advisable to scatter other specific anti-avoidance principles across various other chapters in the book.

It is highly unlikely that international tax (chapter 14) can be accommodated in an undergraduate introductory tax course on LL.B. level. The inclusion of international tax in this textbook negates the stated purpose thereof and it can, therefore, not be regarded as an introductory textbook. Although the chapter is excellently written, its inclusion leads to the unfortunate conclusion that the authors of this book do not succeed in their stated objective. This book does not appear to be a user-friendly textbook for law students with easily understandable explanations of basic income tax principles. It rather appears to be a selection of a theoretical exposition on certain selected topics in income tax, which are more suited to provide a summary of income tax to a general practitioner. A focus on elaborated explanations and practical application examples is required before this book can be prescribed for an undergraduate tax course in the LL.B. curriculum.

In general, the language used in the book is too theoretical and academic for the needs of the present-day student. The absence of a glossary to explain basic terminology, coupled with the absence of learning outcomes and questions on each section for students to work through, is cause for concern and shows that there is a serious lack of pedagogical depth in the textbook. Publications of LexisNexis and Oxford University Press are simply light years ahead in this regard with a modern look that is much more student-friendly and appealing to students. Basic textual and formatting changes need to receive attention, such as the alignment of footnotes that creates an unfinished look.

The factual content of the textbook is of a very high standard, except that it becomes outdated if not updated on a yearly basis. The book is furthermore detailed and thorough.

The authors should decide whether this book performs the function of a user-friendly textbook for law students that can be prescribed by South African universities in income tax courses or whether it is merely a general introductory book on income tax in South Africa. If the first objective is chosen, the book needs to be amplified with other taxes such as Value-Added Tax, Donations and Estate Duty, which are all imperative for every prospective jurist's tax knowledge, or the title should be amended to refer to Income Tax only. If the second option is chosen, the book should be updated at least once a year.

As stated above, any addition to the tax literature should be welcomed. However, it is questionable whether this textbook succeeds in the current gap in the market for a student-friendly Tax Law textbook for law students. For the time being, until somebody gets it right, the *status quo* will prevail – the *Silke* textbook.