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## Review: Butterworths Guide to US/UK Private Wealth Tax Planning

05/08/2005 by: Richard Cassell, Withers.

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Those of us who spend our professional lives hacking at the coal face of US and UK tax and estate planning will remember fondly the 1992 BNA publication US/UK Integrated Tax Planning: Estates, Gifts and Trusts (known popularly as the Green Book) by the same authors.

The Green Book was a groundbreaking attempt to synthesise in one slim volume the key tax and planning considerations for clients who are subject to both US and UK tax.

Since 1992, the market for this advice has increased as clients increasingly cross the Atlantic for work, investment or marriage. Some years ago, I used to insist that all young lawyers starting in this practice area should familiarise themselves with the Green Book. But with the passage of time it has become sadly out of date as ever more energetic legislatures change the tax laws on both sides of the Atlantic with increasing abandon.

Despite their protestations that they would never again embark on such an ambitious project, Lee Williams, Rick Layman and Dawn Nicholson have now revised their previous work and should be heartily congratulated on a complete overhaul and substantial expansion of the Green Book, although the dust jacket is no longer just green. In fact, it is a new book since the authors have taken the opportunity to increase the scope both of the legal descriptions and the very helpful planning examples.

This book combines solid legal knowledge with a myriad of practical suggestions and planning ideas drawn from the authors' extensive experience. The authors state in the preface that they have not tried to adopt a single convention with respect to US or UK orthography and they use tax terms from both sides of the Atlantic, but a very helpful definitions section in the preface clarifies any potential for confusion. However, I did find that the book changes gear, sometimes without quite enough clutch action, between the US and UK discussions.

The structure of the book is interesting, helpful and intended to be accessible to readers who may be more familiar with one tax system than the other. The first 15 chapters of the book tackle topical issues such as "types of tax", "deductions, exclusions, exemptions and credits" and other relevant issues. It outlines the US tax issues before moving on to a discussion of the relevant UK tax issues. This topical structure, which is much more ambitious than a pedestrian description of the relevant tax rules of each jurisdiction, is extremely helpful for the reader who can relate the foreign tax rule to analogous rules that he or she understands.

For example, chapter 4 sets forth the requirements for exempt transfers to trusts for surviving spouses under both the US and UK systems, and there is an extremely good discussion of domicile on both sides of the Atlantic. (Lee Williams makes the excellent

choice in the US transfer tax discussion to refer to non-domiciliaries of the US rather than non-resident aliens, as the Internal Revenue Code misleadingly refers to them). This topical approach, while useful, does inevitably mean there are a number of cross-references between different chapters but I think that must be inevitable with this type of approach and overall it is extremely user friendly.

Needless to say, in a work of this nature there will be some cavils and complaints. I found the outline of the US income tax rules relating to trusts to be slightly confusingly ordered, and the use of the residence concept to distinguish between US and foreign trusts unhelpful in my view. I think this was an effort to try assist the UK reader. In one or two places, I thought the generally excellent use of examples had gone a little too far with some pedestrian examples that could have been omitted. Although the authors clearly had fun with the names of the individuals in the examples, I think Benjamin Franklin might be spinning in his grave at the injustices done to his name. The topical approach of the book means that some inconsistencies and repetitions creep in and a couple of Code sections are outlined more than once. However, on balance I think that a little repetition can be helpful for the reader dipping in to look at one particular item.

Chapters 14 through 20 provide extremely helpful outlines of practical planning suggestions and considerations. For example, in chapter 18 the authors produce a thoughtful summary of the different planning options for an adviser faced with a foreign trust with a US beneficiary – I have not seen these suggestions collected in one place before in published material. While I might criticise a few details of some of the planning suggestions, overall I think this is a uniquely practical and helpful section of the book. In particular, the appendices include practical estate planning suggestions and illustrations of estate planning for cross-border estates that are presented in a very accessible form.

The authors are to be congratulated on their courage, energy and thoughtfulness in taking on this project to expand and improve the previous edition so magnificently and on their willingness to share their thinking and planning in such a useful and practical format. The new edition of this book is now high on our firm's list of essential reading for all lawyers engaged in this practice, and certainly I can say that my colleagues are now busily ordering their own copies. This is not a book for the library, this is a book to keep on your desk.

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