

State tax commissioner.

Under the system of corporate taxation prescribed by this section and sections 151, 153, 163 and 165, the powers and duties of the tax commissioner relate exclusively to making and returning the assessment of the shares of stock, and he is to make out but one assessment and must certify that to the comptroller for state taxation and to the county commissioners and appeal tax court for local taxation. This section referred to in construing section 163—see notes thereto. *Schley v. Lee*, 106 Md. 397.

While this section contains no specific directions as to the manner in which the value of stock is to be ascertained, yet under section 15 of the Bill of Rights, the commissioner should ascertain the actual value of the stock; that is, ordinarily, what it will bring at a fair sale in the market. The "book value" of stock is not in itself a proper criterion. *Schley v. Montgomery County*, 106 Md. 410. And see *American Coal Co. v. Allegany County*, 59 Md. 194.

The tax commissioner should not only certify the number and value of the shares of stock held by residents, but by non-residents also, the latter being taxable as well as the former. The certificate of the tax commissioner to the appeal tax court, held defective in form but sufficient in substance. *American Coal Co. v. Allegany County*, 59 Md. 192; *Baltimore v. Baltimore, etc., R. R. Co.*, 57 Md. 35.

As to when the tax commissioner is only a ministerial officer, and his limited powers, see *Baltimore v. Canton Co.*, 63 Md. 233; *Schley v. Lee*, 106 Md. 394.

County and municipal taxes.

Municipal taxes upon corporate stock can be levied only upon the valuation thereof by the tax commissioner under this section, the municipality having no power to increase or diminish such valuation. Hence, a notice from the city to the shareholders of an increase in assessment, is nugatory, the corporation being treated as representing the shareholders. How the provision of this section relative to the shares being assessed against the shareholders may be complied with. *Clark Distilling Co. v. Cumberland*, 95 Md. 471.

This section construed in connection with sections 153 and 159, means that county and municipal, as well as state, are to be assessed as of January first. Hence, where corporate stock is held by non-residents on January 1, 1905, and on February 1, 1905, it is transferred to residents, the stock is taxable for 1905 where the corporation has its principal office, and not where the holders reside. (Section 159 was amended by the act of 1906, ch. 84). *Baltimore City v. Chester River, etc., Co.*, 103 Md. 404; *Union Trust Co. v. Belvedere Co.*, 105 Md. 525.

As to the county and municipal taxation of property owned by railroads, see sec. 193; see also, sec. 216.

Generally.

Taxes on corporate stock may be recovered in an action at law against the corporation, and it is (by virtue of the statute), the duty and obligation of the corporation to pay the taxes without regard to whether dividends are paid to the stockholders, and although the corporation has become insolvent and gone into the hands of receivers. *Union Trust Co. v. Belvedere Co.*, 105 Md. 522; *Carstairs v. Cochran*, 95 Md. 503 (affirmed in 193 U. S. 10); *Hull v. Southern Development Co.*, 89 Md. 9; *Casualty Company's Case*, 82 Md. 564; *American Coal Co. v. Allegany County*, 59 Md. 190.

The property of a corporation, however, can not be levied on and sold for taxes. *Hull v. Southern Development Co.*, 89 Md. 9.

Taxes on the stock of a corporation are not due by the corporation but by the individuals who own the stock, the corporation for the sake of convenience being made the agent of the state and county to collect the tax, and being entitled to charge the same against the stockholder. This section referred to in declaring invalid the act of 1900, ch. 579, purporting to apply to Allegany County. *Baltimore v. Allegany County*, 99 Md. 5; *Hull v. Southern Development Co.*, 89 Md. 9; *Crown Cork and Seal Co. v. State*, 87 Md. 696; *United States Power, etc., Co. v. State*, 79 Md. 69; *American Coal Co. v. Allegany County*, 59 Md. 190.