

executor by way of compensation such legacy shall be reckoned in the commissions fixed by the court.

A register of wills is not entitled to retain as extra compensation over and above his salary and expenses of his office, commissions on amount of taxes on commissions of executors and administrators collected by him. *Banks v. State*, 60 Md. 308.

Under this and the following section orphans' court must fix commissions not only in cases where executor claims them but in all cases (not covered by art. 93, sec. 6), whether executor claims them or not, and it is on commissions as thus fixed, that tax is imposed. History of this and following section. This section construed in connection with art. 93, sec. 5—see notes thereto. *In re Estate of Watts*, 108 Md. 698; *Beachley v. Estate of Ballinger*, 119 Md. 157.

A testator made a bequest in favor of his executor in lieu of commissions, which was more than commissions would have amounted to; executor was appointed administrator *pendente lite* and part of property passed through his hands as such, and part through his hands as executor, but he did only what he would have been required to do as executor. Held that this and two following sections did not authorize allowance of commissions. The question whether these sections do or do not require imposition of tax upon a legacy given in lieu of commissions, not considered. *Renshaw v. Williams*, 75 Md. 509.

Where money of an estate is paid to a foreign executor before letters are granted in Maryland, Maryland executor is not entitled to commissions on such money; hence, there is no tax on commissions. *Citizens' Bank v. Sharp*, 53 Md. 531.

The act of 1860, ch. 163, repealed and re-enacted sec. 107 of the Code of 1860—see sec. 120—so as to exempt from tax an executor who renounced his commissions. Held that such an executor was relieved from tax where account was stated after enactment of act of 1860, although letters were granted and inventory filed prior thereto. *Owings v. State*, 22 Md. 118. And see *Williams v. Mosher*, 6 Gill, 454.

As to commissions of executors and administrators, see art. 93, sec. 5, and notes. As to state tax on commissions of foreign executors, see art. 93, sec. 81.

An. Code, sec. 116. 1904, sec. 113. 1888, sec. 98. 1860, ch. 163. 1862, ch. 18.  
1874, ch. 483, sec. 99.

**120.** The several orphans' courts shall fix the commissions of executors within twelve months from the grant of administration, and in all subsequent accounts wherein executors shall charge themselves with further assets, and they shall fix such commissions in all cases in which letters of administration have been or may hereafter be granted, whether commissions are claimed by the executors or not; and all commissions so fixed shall be subject to the tax imposed by the foregoing section.

See notes to sec. 119.

An. Code, sec. 117. 1904, sec. 114. 1888, sec. 99. 1844, ch. 184, sec. 2. 1874, ch. 483, sec. 100.

**121.** Every executor or administrator shall pay said tax to the register of wills of the proper county or city on the passage of his accounts; and on failure to do so within thirty days thereafter the register shall notify the state's attorney of the city or county, who shall thereupon put the bond of such executor or administrator in suit for the use of the State; and the said bond shall be liable therefor as for any other default of the principal obligor.

See notes to sec. 119.

An. Code, sec. 118. 1904, sec. 115. 1888, sec. 100. 1844, ch. 184, sec. 4. 1874, ch. 483, sec. 101.

**122.** Upon payment to the register he shall give to the executor or administrator duplicate receipts, one of which shall be forwarded by him