

estate sold, and not before; provided, however, that nothing in this section contained shall be construed to confer authority on the orphans' court to order the sale of any real estate for the satisfaction of collateral inheritance tax after the expiration of four years from the date of the death of the decedent, who shall have died seized and possessed of said real estate.

This section makes it the duty of personal representatives to collect and pay over collateral tax. The state should not be made a party defendant, since it may not be sued without its consent, to a bill to enjoin collection of such tax. Administrators will be protected from action by state. *State v. Wingert*, 132 Md. 611.

This section referred to in upholding power of orphans' court to confer upon personal representative, under art. 93, sec. 302, power to sell real estate situate in another county. *Cain v. Miller*, 117 Md. 49.

See notes to sec. 124.

An. Code, sec. 133. 1904, sec. 130. 1888, sec. 115. 1846, ch. 344, sec. 1. 1847, ch. 222, sec. 6. 1874, ch. 483, sec. 126. 1880, ch. 455. 1904, ch. 222.

137. Whenever any estate, real, personal or mixed, of a decedent shall be subject to the tax mentioned in the thirteen preceding sections, and there be a life estate or interest for a term of years, or a contingent interest, given to one party and the remainder, or reversionary¹ interest, to another party, the orphans' court of the county or city in which administration is granted shall determine in its discretion and at such time as it shall think proper what proportion the party entitled to said life estate, or interest for a term of years, or contingent interest, shall pay of said tax, and the judgment of said court shall be final and conclusive, and the party entitled to said life estate or interest for a term of years, or other contingent interest, shall within thirty days after the date of such determination pay to the register of wills his proportion of said tax; and thereafter the said court shall from time to time after the determination of the preceding estate and as the remainder of said estate shall vest in the party or parties entitled in remainder or reversion determine in its discretion what proportion of the residue of said tax shall be paid by the party or parties in whom the estate shall so vest; and the judgment of the said court shall be final and each of the parties successively entitled in remainder or reversion shall pay his proportion of said tax to the register of wills within thirty days after the date of such determination as to him; and the proportion of the tax so determined to be paid by the party entitled to the life interest or estate shall be and remain a lien upon such interest or estate for the period of four years after the date of the death of the decedent, who shall have died seized and possessed by the property; and the proportion of the tax so determined to be paid by the persons respectively entitled to the remainder, or reversionary interest, shall be a lien on such interest for the period of four years from the date of which such interest shall vest in possession.

The portion of this section declaring judgment of orphans' court to be final and conclusive applies only to proportion of tax which orphans' court assesses among the parties interested in estate. Where constitutionality of collateral inheritance tax laws is raised, an appeal lies. This section held to have been complied with. *Tyson v. State*, 28 Md. 585.

See notes to sec. 124.

¹ Evidently a typographical error in the act.