

**Distilled Spirits.**

An. Code, sec. 218. 1904, sec. 214. 1892, ch. 704, sec. 1.

**229.** There shall be levied and collected upon all distilled spirits in this State as personal property the same rate of taxation which is imposed by the laws of the State on other property for State and county purposes.

The tax upon distilled spirits is not on property but upon owner. Object of this section. This and the following sections (particularly in view of sec. 237) are not invalid because they require distillers or warehousemen to pay tax; nor do they impose a double tax; nor is question affected by non-residence of either owner or distiller. Prior to act of 1898, ch. 275 (see sec. 215), act of 1892, ch. 704, was invalid as to counties, because there was no provision for notice and an opportunity to be heard before assessment was made, nor for an appeal; and prior to act of 1900, ch. 320 (see secs. 231 and 232), the act of 1892 was invalid for same reason, as to Baltimore city. Neither secs. 18, 24, 170 nor 171 remedied such defect in act of 1892. Taxes actually paid under act of 1892, however, could not be reclaimed. *Monticello Co. v. Baltimore*, 90 Md. 423; *Carstairs v. Cochran*, 95 Md. 498 (affirmed in 193 U. S. 10); *Hannis Distilling Co. v. Baltimore*, 114 Md. 678. (And see *Hannis Distilling Co. v. Baltimore*, 216 U. S. 285); *Baltimore v. State*, 105 Md. 4; *Gittings v. Baltimore*, 95 Md. 425; *Fowble v. Kemp*, 92 Md. 632. *Cf. Baltimore v. Grand Lodge*, 60 Md. 284; *Merchants Bank v. Roxbury Distilling Co.*, 196 Fed. 76; *Tax Commission v. Distillery Co.*, 140 Md. 238.

While a distilling company is liable for allowing whiskey to be taken away from warehouse without collecting and paying over tax imposed by this section, there is no lien on whiskey remaining on storage but belonging to others. *Merchants Bank v. Roxbury Distilling Co.*, 196 Fed. 103. (See also opinion of special master in this case, particularly page 92.)

Action of state tax commission in imposing taxes against a warehouse company under this and the following sections, upheld, notwithstanding 18th Amendment to Federal Constitution and Volstead act. Effect of 18th Amendment and Volstead act. Reimbursement of the warehouseman; enforcement of lien. No violation of articles 15 and 23 of Md. Bill of Rights. *Tax Commission v. Distillery Co.*, 140 Md. 232.

While warehouseman or distiller is liable for tax under this and following sections, distress is unwarranted save as it is authorized by secs. 234 and 236. *Fowble v. Kemp*, 92 Md. 638; *Merchants Bank v. Roxbury Distilling Co.*, 196 Fed. 76.

This section referred to in construing sec. 170—see notes thereto. *Clark Distilling Co. v. Cumberland*, 95 Md. 478.

Cited but not construed in *Wilkins Co. v. Baltimore*, 103 Md. 309.

An. Code, sec. 219. 1904, sec. 215. 1892, ch. 704, sec. 2. 1916, ch. 631, sec. 219. 1918, ch. 214, sec. 219.

**230.** For the purpose of such assessment and collection it is hereby made the duty of each distiller, and of every owner or proprietor of a bonded or other warehouse, in which distilled spirits are stored and of every person or corporation having custody of such spirits to make report to the State Tax Commission on or before the first day of March in each and every year of all the distilled spirits on hand as of the first day of January preceding, and the tax for the ensuing year from the said first day of January shall be levied and paid on the amount of distilled spirits so in hand as representing the taxable distilled spirits for such year; provided, however, that the same distilled spirits shall not be taxed twice for the same year.

Action of state tax commission in imposing certain taxes against a warehouse company under this sub-title, upheld, notwithstanding 18th Amendment to Federal Constitution and Volstead act. Effect of 18th Amendment and Volstead act. Reimbursement of warehouseman; enforcement of lien. No violation of arts. 15 and 23 of Md. Bill of Rights. *Tax Commission v. Distillery Co.*, 140 Md. 232.

See notes to secs. 229 and 233.