

**124.** Collateral inheritance tax is tax upon right of legatee or heir to receive inheritance, and not estate tax on right to transmit it. Federal decision based on construction of Pennsylvania statute by Pennsylvania court. Federal inheritance tax. *Hospital v. Dugan*, 146 Md. 378. *Cf. Miles v. Curley*, 291 Fed. (C. C. A. 4th), 761.

**124.** Sec. 124 (old) referred to in footnote to dissenting opinion to decision holding unconstitutional statute exempting instruments maturing in five years from tax upon mortgages. *Magoun v. Illinois Bank*, 170 U. S. 283, upholding inheritance tax which exempted estates of \$500, referred to. *Louisville Gas Co. v. Coleman*, 277 U. S. 44, 72 L. Ed. 777.

**124.** Pennsylvania may impose tax on transfer of stock of corporation of Maryland and Pennsylvania owned by deceased resident of Maryland. Principal office. *Northern Centl. Rwy. Co. v. Trust Co.*, 152 Md. 104.

As to the Maryland estate tax, see art. 62A.

When testator conveyed property owned absolutely by him to one, who, on same day reconveyed it to himself as trustee, to pay income to his wife during her life and to himself if he survived her, with power in the trustee to sell and mortgage, and the property to go, upon the death of the survivor, as will of testator might direct, held that nieces and nephews to whom property passed under the will, took it subject to the payment of collateral inheritance tax. *Lilly v. State*, 156 Md. 94.

Where person conveyed property to trustee, in trust to pay income to her for life and after her death to convey corpus to her son and daughter-in-law by the entireties absolutely and free from trust, held that she did not die "seized and possessed" of the property, and consequently property conveyed to daughter-in-law not subject to collateral inheritance tax. *Downes v. Safe Deposit & Trust Co.*, 157 Md. 90.

Where woman conveyed property to trustee, to manage during her life, but reserving to herself the income and power of testamentary disposition, with limitation to her heirs in default of such disposition, she remained possessed of the property within meaning of inheritance tax law, and on the exercise of the power in favor of collateral heirs, the gifts were subject to the tax. *Darnall v. Connor*, 161 Md. 210.

Where grantor conveys property to trustee, but retains benefits of ownership during life without reserving control as to final disposition of property, the gift is immediate and complete and property is not taxable. *Downes v. Safe Dep. & Tr. Co.*, 163 Md. 30.

Collateral inheritance is payable upon values shown by reappraisal if reappraisal values are less than inventory values; under sec. 106 tax is not payable on increase in value or to income thereon subsequent to death of decedent (decided prior to act of 1935, ch. 520). *Downes v. Safe Dep. & Tr. Co.*, 164 Md. 296.

Where legatees under will renounced legacies, held that there was no acceptance by legatees and no transfer of property, therefore no tax payable under this section. *Bouse v. Hull*, Daily Record, January 28, 1935.

Secs. 124-148 (now secs. 105-132) referred to in holding that realty of decedent is not subject to expense of administration in Maryland. *Safe Dep. & Tr. Co. v. Tait*, 54 Fed. (2nd), 390.

1933, ch. 323.

**105A.** Monies bequeathed for the perpetual upkeep of a grave or graves shall not be subject to payment of a collateral inheritance tax, provided, however, that such exemption shall not exceed the sum of Five Hundred Dollars (\$500.00).

1929, ch. 226, sec. 106. 1935, ch. 90, sec. 106. 1935, ch. 520.

**106.** Every executor to whom administration may be granted, before he pays any legacy or distributive share of any estate liable to the tax

See important footnote on first page of this article.