

Inheritance tax payable by donee unless will manifests intention that tax is to be paid out of residue of estate. *Aged People's Home v. Hospital*, 170 Md. 128.

See notes to sec. 109.

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. C. A. 4th), 761.

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.

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. 112 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*, 168 Md. 1.

Secs. 124-148 (now secs. 110-139) 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.

The purport of this section is that collateral kindred should pay a certain premium for privilege of acquiring decedent's property which is subject to laws of Maryland; tax is, therefore, not upon property itself. The words "being in this state" refer to property and not to person. When property is "in this state" within meaning of this section. Broad application of this section. *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119; *Helser v. State*, 128 Md. 232; *Washington Hospital v. Mealey*, 121 Md. 280; *Safe Deposit Co. v. State*, 143 Md. 646.

The object and purpose of the appraisal of real estate is to fix and compute collateral inheritance tax; this tax is not a tax on property but on privilege of succeeding to it by inheritance or under a will. Where an undivided one-seventh interest in real estate is subject to the tax it is proper to appraise the real estate as a whole and then divide the result by seven. *Wingert v. State*, 129 Md. 30.

This section is constitutional and valid. *Tyson v. State*, 28 Md. 578; *State v. Dalrymple*, 70 Md. 298; *Fisher v. State*, 106 Md. 119; *Washington Hospital v. Mealey*, 121 Md. 280.

Collateral inheritance tax is upon value of property not at time of testator's death, but at the time it is transferred to beneficiary. Interest. *Fisher v. State*, 106 Md. 117.

Where administrator of a non-resident collects a mortgage debt due to latter at time of his death such money is subject to tax imposed by this section. The rule that personal property follows domicile of owner always gives way to valid statutory provisions fixing *situs* of such property for taxation. If the tax has been voluntarily paid through an error of law it may not be recovered back although it is still in hands of register of wills; latter in a suit by state could not defend on ground that tax had been unlawfully collected. *Helser v. State*, 128 Md. 230.

A resident's real estate located in a foreign jurisdiction is not subject to a collateral inheritance tax in Maryland, nor are proceeds of such real estate where it is sold under a will, taxable. Cases reviewed. *State v. Fushing*, 134 Md. 350. And see *Safe Deposit Co. v. State*, 143 Md. 648.