

If the franchise tax imposed on any foreign corporation shall not be paid by the first day of December in the year for which such tax is imposed, if on that date thirty days shall have elapsed since the rendition of a bill for such taxes by the Comptroller of the Treasury and, if not, then at the expiration of said thirty days' period, any and all defaulting foreign corporations shall forfeit the right to do business in this State until all taxes due are paid, as well as any interest or charge thereon and in addition be subject to the penalty prescribed by Section 121 of Article 23 of the Code of Public General Laws.

As to the State Tax Commission, see sec. 167, *et seq.*

GENERAL PROVISIONS.

Preference of Taxes.

An. Code, 1924, sec. 74. 1912, sec. 68. 1904, sec. 66. 1888, sec. 64. 1843, ch. 208, sec. 7. 1874, ch. 483, sec. 63. 1892, ch. 518. 1929, ch. 226, sec. 142.

150. (a) Whenever a sale of either real or personal property upon which taxes are due and payable shall be made by any ministerial officer, under judicial process or otherwise, all sums due and in arrears for taxes, upon such property, from the party whose property is sold shall be first paid and satisfied; and the officer or person selling shall pay the same to the collector of the county and/or city.

(b) Whenever a sale of either real or personal property of a corporation, from which state taxes are due and payable, shall be made by any sheriff, constable, trustee, receiver or other ministerial officer, under judicial process or otherwise, all sums due and in arrears for state taxes from the corporation whose property is sold shall be first paid and satisfied, after the necessary expenses incident to the sale; and the officer or person selling said property shall pay the same to the person whose duty it is to collect or receive said taxes, under the laws of this State.

(c) Executors shall pay all taxes due from their decedents as preferred debts, and to the exclusion of all others, except the necessary funeral expenses; and on failure, their bonds shall be put in suit for the use of the State, and recovery had for the whole amount of taxes due, and interest from the time they were payable; this sub-section shall also apply to guardians, for taxes upon property in their hands as such.

Taxes held to be preferred claim in distribution in insolvency cases and on distribution of proceeds of judicial sale. *Balto. Tr. Co. v. Interocean Oil Co.*, 30 F. Supp. 560.

Cited in construing art. 23, secs. 96, 100 and 102. *Match Co. v. State Tax Comm.*, 175 Md. 245.

Where collector may not proceed by execution because property of taxpayer is in custody of court, he should apply to court for payment of taxes on property being sold; other taxes due may be paid out of residue of proceeds of sale for distribution to taxpayer or unsecured creditors. Rights of mortgagee. Sec. 74 (old) in *pari materia* with sec. 58 (old), *et seq.*—see sec. 197, *et seq.* *Thompson v. Henderson*, 155 Md. 669.

Second mortgage entitled to payment out of proceeds of property sold under first mortgage in priority to taxes on mortgagor's personality. *Parlett v. Dugan*, 85 Md. 407, upheld. *Madore v. Thompson*, 155 Md. 678.

Sale under mortgage, after filing of bond under art. 66, sec. 8, takes priority over sale for taxes, unless there is undue delay—taxes paid out of proceeds of sale. *Rouse v. Archer*, 149 Md. 473.

This section referred to in holding art. 56, sec. 159, constitutional—see notes thereto. *Grossfield v. Baughman*, 148 Md. 337.

Although taxes are not a lien on personal property—see sec. 56 (old)—payment is to be made under this section irrespective of whether an actual lien has been acquired by distress. This section is not limited in its application to state taxes, and it applies to attachment cases. Taxes which are in arrears when sale is made are chargeable against fund. Where part only of the goods are sold, the taxes on entire goods must be paid out of proceeds of goods sold. *Degner v. Baltimore*, 74 Md. 146 (decided prior to act of 1892, ch. 518).