

By: Representative Gunn

To: Ways and Means

HOUSE BILL NO. 294

1 AN ACT TO AMEND SECTION 27-10-5, MISSISSIPPI CODE OF 1972, TO
2 EXCLUDE CERTAIN PROPERTY FROM THE DEFINITION OF THE TERM "ESTATE"
3 AND TO REVISE THE DEFINITION OF THE TERM "PERSON INTERESTED IN THE
4 ESTATE" FOR PURPOSES OF THE STATE UNIFORM ESTATE TAX APPORTIONMENT
5 ACT; TO AMEND SECTION 27-10-7, MISSISSIPPI CODE OF 1972, TO REVISE
6 CERTAIN PROVISIONS REGARDING THE APPORTIONMENT OF TAX UNDER THE
7 STATE UNIFORM ESTATE TAX APPORTIONMENT ACT; AND FOR RELATED
8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 27-10-5, Mississippi Code of 1972, is
11 amended as follows:

12 27-10-5. Definitions.

13 In this chapter:

14 (a) "Estate" means the gross estate of a decedent as
15 determined for the purpose of federal estate tax and the estate
16 tax payable to this state. The term "estate" does not include any
17 property or interest in property that is not included in a
18 decedent's taxable estate determined under 26 USCS § 2001(b)(1)(A)
19 and 26 USCS § 2051, and does not include any adjustable taxable
20 gifts of the decedent as defined in 26 USCS § 2001(b)
21 notwithstanding the holding of any court to the contrary;

22 (b) "Fiduciary" means executor, administrator of any
23 description, and trustee;

24 (c) "Person" means any individual, partnership,
25 association, joint stock company, corporation, government,
26 political subdivision, governmental agency or local governmental
27 agency;

28 (d) "Person interested in the estate" means any person
29 including an executor, administrator, guardian, conservator or
30 trustee, entitled to receive, or who has received, from a decedent

31 while alive or by reason of the death of a decedent any property
32 or interest therein included in the decedent's taxable estate as
33 determined under 26 USCS § 2001(b)(1)(A) and 26 USCS § 2051;

34 (e) "State" means any state, territory, or possession
35 of the United States, the District of Columbia, or the
36 Commonwealth of Puerto Rico; and

37 (f) "Tax" means the federal estate tax and the
38 additional estate tax imposed by the State of Mississippi and
39 interest and penalties imposed in addition to the tax.

40 **SECTION 2.** Section 27-10-7, Mississippi Code of 1972, is
41 amended as follows:

42 27-10-7. Except as provided in Section 27-10-17 and, unless
43 the will otherwise provides, the tax shall be apportioned among
44 all persons interested in the estate. The apportionment shall be
45 made in the proportion that the value of the interest of each
46 person interested in the estate bears to the total value of the
47 interests of all persons interested in the estate. The values
48 used in determining the tax shall be used for that purpose. If
49 the decedent's will directs a method of apportionment of tax
50 different from the method described in this chapter, the method
51 described in the will controls; however, tax may not be
52 apportioned against an interest which is not an interest in the
53 estate, including, specifically, any adjustable taxable gift of
54 the decedent as defined in Section 26 USCS § 2001(b),
55 notwithstanding any provision of the decedent's will to the
56 contrary.

57 **SECTION 3.** This act shall take effect and be in force from
58 and after its passage.