

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 694
HOUSE BILL 607

AN ACT TO MAKE TECHNICAL AMENDMENTS REGARDING
APPORTIONMENT OF THE FEDERAL ESTATE TAX BURDEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-27-2(b) reads as rewritten:

"(b) In the event the decedent's will provides a method of apportionment of the tax different from the method provided in subsection (a) above, the method described in the will shall control. However, in the case of any will executed on or after October 1, 1986, ~~A~~a general direction in the will that taxes shall not be apportioned, whether or not referring to this Article, but shall be paid from the residuary portion of the estate shall not, unless specifically stated otherwise, apply to taxes imposed on assets which are includible in the valuation of the decedent's gross estate for federal estate tax purposes only by reason of Sections 2041, 2042 or 2044 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent tax law. In the case of an estate administered under any will executed on or after October 1, 1986, ~~In~~in the event that the estate tax computation involves assets described in the preceding sentence, unless specifically stated otherwise, apportionment shall be made against such assets and the tax so apportioned shall be recovered from the persons receiving such assets as provided in Sections 2206, 2207 or 2207A of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent tax."

Sec. 2. G.S. 28A-27-5(a) reads as rewritten:

"(a) Any interest for which a deduction or exemption is ~~allowable~~allowed under the federal revenue laws in determining the value of the decedent's net taxable estate, such as property passing to or in trust for a surviving spouse and gifts or bequests for charitable, public, or similar purposes, shall not be included in the computation provided for in Section 28A-27-2 to the extent of the allowable deduction or exemption. When such an interest is subject to a prior present interest which is not allowable as a deduction or exemption, such present interest shall not be included in the computation provided for in this Article and no tax shall be apportioned to or paid from principal."

Sec. 3. G.S. 28A-27-5(d) reads as rewritten:

"(d) To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an ~~allowable~~allowed deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in this Article, and to that extent no apportionment shall be made against the property. This section does not apply in any instance where the

result will be to deprive the estate of a deduction otherwise allowable under Section 2053(d) of the Internal Revenue Code of 1954 of the United States or corresponding provisions of any subsequent tax law, relating to deduction for State death taxes on transfers for public, charitable, or religious uses."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of July, 1987.