

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1729

To amend the Internal Revenue Code of 1986 to provide that providers rather than purchasers of funeral services shall be treated as the owners of certain pre-need funeral trusts.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1995

Mrs. MINK of Hawaii introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that providers rather than purchasers of funeral services shall be treated as the owners of certain pre-need funeral trusts.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TREATMENT OF FUNERAL SERVICE PROVIDER**

4 **RATHER THAN PURCHASER AS OWNER OF**

5 **CERTAIN PRE-NEED FUNERAL TRUSTS.**

6 (a) IN GENERAL.—Section 672 of the Internal Reve-  
7 nue Code of 1986 (relating to definitions and rules) is

1 amended by adding at the end the following new sub-  
2 section:

3 “(g) SPECIAL RULE FOR CERTAIN PRE-NEED FU-  
4 NERAL TRUSTS.—

5 “(1) IN GENERAL.—Notwithstanding any other  
6 provision of this title, if—

7 “(A) any individual would (but for this  
8 subsection) be treated under this subpart as the  
9 owner of any portion of a trust, and

10 “(B) such trust is a qualified pre-need fu-  
11 neral trust,

12 the provider of funeral services referred to in para-  
13 graph (3)(B) (and not such individual) shall be  
14 treated as the owner of such portion.

15 “(2) EXCEPTION IF INCOME DISTRIBUTED TO  
16 PURCHASER.—Paragraph (1) shall not apply with  
17 respect to any income which is distributed to the in-  
18 dividual described in paragraph (1)(A).

19 “(3) QUALIFIED PRE-NEED FUNERAL TRUST.—  
20 For purposes of this subsection, the term ‘qualified  
21 pre-need funeral trust’ means a trust established ex-  
22 clusively to pay for the funeral (and associated  
23 costs) of one individual if—

24 “(A) such individual is the individual re-  
25 ferred to in paragraph (1)(A) or a member of

1 such individual's family (as defined in section  
2 2032A(e)(2)),

3 “(B) the provider of the funeral services  
4 for such funeral is specified in the trust instru-  
5 ment or in an agreement pursuant to which the  
6 trust is established,

7 “(C) an agreement which is in effect be-  
8 tween such individual and such provider speci-  
9 fies that such provider shall be treated as de-  
10 scribed in paragraph (1) and such agreement is  
11 entered into on or before the date on which the  
12 trust is established,

13 “(D) the trustee of the trust agrees to fur-  
14 nish to such provider, at the time and in the  
15 manner prescribed by the Secretary, such infor-  
16 mation as is necessary for the provider to com-  
17 ply with this subsection, and

18 “(E) such trust is established before the  
19 death of such individual or the member of the  
20 individual's family, as the case may be.”

21 (b) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendment made by  
23 this section shall apply to items which, but for such  
24 amendment, would be taken into account in taxable

1 years of a grantor which end after the date of the  
2 enactment of this Act.

3 (2) TRUSTS ESTABLISHED BEFORE DATE OF  
4 ENACTMENT.—In the case of a trust established be-  
5 fore the date of the enactment of this Act, section  
6 672(g)(3)(C) of such Code (as added by this section)  
7 shall be applied by treating an agreement which is  
8 entered into before the end of the 1-year period be-  
9 ginning with the date of the enactment of this Act  
10 as if such agreement were entered into on or before  
11 the date on which the trust was established.

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