

105TH CONGRESS  
1ST SESSION

# H. R. 684

To amend the Internal Revenue Code of 1986 to clarify the treatment of funeral trusts.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1997

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 clarify the treatment of 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 TRUSTS.**

4       (a) IN GENERAL.—Subpart F of part I of subchapter  
5       J of chapter 1 of the Internal Revenue Code of 1986 is  
6       amended by adding at the end the following new section:

7       **“SEC. 684. TREATMENT OF FUNERAL TRUSTS.**

8       “(a) IN GENERAL.—In the case of a qualified funeral  
9       trust—

1           “(1) subparts B, C, D, and E shall not apply,  
2           and

3           “(2) no deduction shall be allowed by section  
4           642(b).

5           “(b) QUALIFIED FUNERAL TRUST.—For purposes of  
6 this section, the term ‘qualified funeral trust’ means any  
7 trust (other than a foreign trust) if—

8           “(1) the trust arises as a result of a contract  
9           with a person engaged in the trade or business of  
10           providing funeral or burial services or property nec-  
11           essary to provide such services,

12           “(2) the sole purpose of the trust is to hold, in-  
13           vest, and reinvest funds in the trust and to use such  
14           funds solely to make payments for such services or  
15           property for the benefit of the beneficiaries of the  
16           trust,

17           “(3) the only beneficiaries of such trust are in-  
18           dividuals who have entered into contracts described  
19           in paragraph (1) to have such services or property  
20           provided at their death,

21           “(4) the only contributions to the trust are con-  
22           tributions by or for the benefit of such beneficiaries,  
23           and

1           “(5) the trust would (but for this section) be  
2           treated as owned by the beneficiaries under subpart  
3           E.

4           “(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

5           “(1) IN GENERAL.—The term ‘qualified funeral  
6           trust’ shall not include any trust which accepts ag-  
7           gregate contributions by or for the benefit of an in-  
8           dividual in excess of \$7,000.

9           “(2) RELATED TRUSTS.—For purposes of para-  
10          graph (1), all trusts having trustees which are relat-  
11          ed persons shall be treated as 1 trust. For purposes  
12          of the preceding sentence, persons are related if—

13                 “(A) the relationship between such persons  
14                 would result in the disallowance of losses under  
15                 section 267 or 707(b),

16                 “(B) such persons are treated as a single  
17                 employer under subsection (a) or (b) of section  
18                 52, or

19                 “(C) the Secretary determines that treat-  
20                 ing such persons as related is necessary to pre-  
21                 vent avoidance of the purposes of this section.

22           “(3) INFLATION ADJUSTMENT.—In the case of  
23           any contract referred to in subsection (b)(1) which  
24           is entered into during any calendar year after 1997,

1 the dollar amount referred to paragraph (1) shall be  
2 increased by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3) for such calendar  
6 year, by substituting ‘calendar year 1996’ for  
7 ‘calendar year 1992’ in subparagraph (B)  
8 thereof.

9 If any dollar amount after being increased under the  
10 preceding sentence is not a multiple of \$100, such  
11 dollar amount shall be rounded to the nearest mul-  
12 tiple of \$100.

13 “(d) APPLICATION OF RATE SCHEDULE.—Section  
14 1(e) shall be applied to each qualified funeral trust by  
15 treating each beneficiary’s interest in each such trust as  
16 a separate trust.

17 “(e) TREATMENT OF AMOUNTS REFUNDED TO BEN-  
18 EFICIARY ON CANCELLATION.—No gain or loss shall be  
19 recognized to a beneficiary described in subsection (b)(3)  
20 of any qualified funeral trust by reason of any payment  
21 from such trust to such beneficiary by reason of cancella-  
22 tion of a contract referred to in subsection (b)(1). If any  
23 payment referred to in the preceding sentence consists of  
24 property other than money, the basis of such property in  
25 the hands of such beneficiary shall be the same as the

1 trust's basis in such property immediately before the pay-  
2 ment.

3       “(f) EXCEPTION IF INTEREST PAID TO BENE-  
4 FICIARIES PURSUANT TO ELECTION.—If, on or before the  
5 date on which a qualified funeral trust is established, the  
6 trustee, pursuant to an agreement with a beneficiary of  
7 such trust, elects to pay (not less than annually) to such  
8 beneficiary all income of the trust which is attributable  
9 to such beneficiary, then for purposes of this title such  
10 beneficiary's interest in such trust shall be treated as a  
11 separate trust to which this section does not apply. The  
12 election under this subsection, once made, shall be irrev-  
13 ocable.

14       “(g) SIMPLIFIED REPORTING.—The Secretary may  
15 prescribe rules for simplified reporting of all qualified fu-  
16 neral trusts having a single trustee.”

17       (b) CLERICAL AMENDMENT.—The table of sections  
18 for subpart F of part I of subchapter J of chapter 1 is  
19 amended by adding at the end the following new item:

“Sec. 684. Treatment of funeral trusts.”

20       (c) EFFECTIVE DATE.—

21           (1) IN GENERAL.—The amendments made by  
22 this section shall apply to items which, but for such  
23 amendment, would be taken into account in taxable  
24 years of a grantor or beneficiary which end after the  
25 date of the enactment of this Act.

1           (2) TRUSTS ESTABLISHED BEFORE DATE OF  
2           ENACTMENT.—In the case of a trust established be-  
3           fore the date of the enactment of this Act, section  
4           684(f) of such Code (as added by this section) shall  
5           be applied by treating an election which is made be-  
6           fore the end of the 1-year period beginning with the  
7           date of the enactment of this Act as if such election  
8           were made on or before the date on which the trust  
9           was established, if such election is made pursuant to  
10          an agreement, described in such section 684(f), en-  
11          tered into during such period.

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