

106TH CONGRESS  
1ST SESSION

# H. R. 1940

To amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1999

Mr. YOUNG of Alaska 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 tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act.

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. TAX TREATMENT OF ALASKA NATIVE SETTLE-**  
4 **MENT TRUSTS.**

5 (a) TAX EXEMPTION.—Section 501(c) of the Internal  
6 Revenue Code of 1986 is amended by adding at the end  
7 the following new paragraph:

8 “(28) A trust which—

1           “(A) constitutes a Settlement Trust under  
2           section 39 of the Alaska Native Claims Settle-  
3           ment Act (43 U.S.C. 1629e), and

4           “(B) with respect to which an election  
5           under subsection (p)(2) is in effect.”

6           (b) SPECIAL RULES RELATING TO TAXATION OF  
7 ALASKA NATIVE SETTLEMENT TRUSTS.—Section 501 of  
8 the Internal Revenue Code of 1986 is amended by redesi-  
9 gnating subsection (p) as subsection (q) and by inserting  
10 after subsection (o) the following new subsection:

11           “(p) SPECIAL RULES FOR TAXATION OF ALASKA NA-  
12 TIVE SETTLEMENT TRUSTS.—

13           “(1) IN GENERAL.—For purposes of this title,  
14           the following rules shall apply in the case of a Set-  
15           tlement Trust:

16           “(A) ELECTING TRUST.—If an election  
17           under paragraph (2) is in effect for any taxable  
18           year—

19           “(i) no amount shall be includible in  
20           the gross income of a beneficiary of the  
21           Settlement Trust by reason of a contribu-  
22           tion to the Settlement Trust made during  
23           such taxable year, and

24           “(ii) except as provided in this sub-  
25           section, the provisions of subchapter J and

1 section 1(e) shall not apply to the Settle-  
2 ment Trust and its beneficiaries for such  
3 taxable year.

4 “(B) NONELECTING TRUST.—If an elec-  
5 tion is not in effect under paragraph (2) for  
6 any taxable year, the provisions of subchapter J  
7 and section 1(e) shall apply to the Settlement  
8 Trust and its beneficiaries for such taxable  
9 year.

10 “(2) ONE-TIME ELECTION.—

11 “(A) IN GENERAL.—A Settlement Trust  
12 may elect to have the provisions of this sub-  
13 section and subsection (c)(28) apply to the  
14 trust and its beneficiaries.

15 “(B) TIME AND METHOD OF ELECTION.—  
16 An election under subparagraph (A) shall be  
17 made—

18 “(i) on or before the due date (includ-  
19 ing extensions) for filing the Settlement  
20 Trust’s return of tax for the 1st taxable  
21 year of the Settlement Trust ending after  
22 the date of the enactment of this sub-  
23 section, and

1           “(ii) by attaching to such return of  
2 tax a statement specifically providing for  
3 such election.

4           “(C) PERIOD ELECTION IN EFFECT.—EX-  
5 cept as provided in paragraph (3), an election  
6 under subparagraph (A)—

7           “(i) shall apply to the 1st taxable year  
8 described in subparagraph (B)(i) and all  
9 subsequent taxable years, and

10           “(ii) may not be revoked once it is  
11 made.

12           “(3) SPECIAL RULES WHERE TRANSFER RE-  
13 STRICTIONS MODIFIED.—

14           “(A) TRANSFER OF BENEFICIAL INTER-  
15 ESTS.—If, at any time, a beneficial interest in  
16 a Settlement Trust may be disposed of in a  
17 manner which would not be permitted by sec-  
18 tion 7(h) of the Alaska Native Claims Settle-  
19 ment Act (43 U.S.C. 1606(h)) if the interest  
20 were Settlement Common Stock—

21           “(i) no election may be made under  
22 paragraph (2)(A) with respect to such  
23 trust, and

24           “(ii) if an election under paragraph  
25 (2)(A) is in effect as of such time—

1                   “(I) such election is revoked as of  
2                   the 1st day of the taxable year fol-  
3                   lowing the taxable year in which such  
4                   disposition is first permitted, and

5                   “(II) there is hereby imposed on  
6                   such trust a tax equal to the product  
7                   of the fair market value of the assets  
8                   held by the trust as of the close of the  
9                   taxable year in which such disposition  
10                  is first permitted and the highest rate  
11                  of tax under section 1(e) for such tax-  
12                  able year.

13                  The tax imposed by clause (ii)(II) shall be in  
14                  lieu of any other tax imposed by this chapter  
15                  for the taxable year.

16                  “(B) STOCK IN CORPORATION.—If—

17                  “(i) the Settlement Common Stock in  
18                  any Native Corporation which transferred  
19                  assets to a Settlement Trust making an  
20                  election under paragraph (2)(A) may be  
21                  disposed of in a manner not permitted by  
22                  section 7(h) of the Alaska Native Claims  
23                  Settlement Act (43 U.S.C. 1606(h)), and

1           “(ii) at any time after such disposi-  
2           tion of stock is first permitted, such cor-  
3           poration transfers assets to such trust,  
4           clause (ii) of subparagraph (A) shall be applied  
5           to such trust on and after the date of the trans-  
6           fer in the same manner as if the trust per-  
7           mitted dispositions of beneficial interests in the  
8           trust in a manner not permitted by such section  
9           7(h).

10           “(C) ADMINISTRATIVE PROVISIONS.—For  
11           purposes of subtitle F, any tax imposed by sub-  
12           paragraph (A)(ii)(II) shall be treated as an ex-  
13           cise tax with respect to which the deficiency  
14           procedures of such subtitle apply.

15           “(4) DISTRIBUTION REQUIREMENT ON ELECT-  
16           ING SETTLEMENT TRUST.—

17           “(A) IN GENERAL.—If an election is in ef-  
18           fect under paragraph (2) for any taxable year,  
19           a Settlement Trust shall distribute at least 55  
20           percent of its adjusted taxable income for such  
21           taxable year.

22           “(B) TAX IMPOSED IF INSUFFICIENT DIS-  
23           TRIBUTION.—If a Settlement Trust fails to  
24           meet the distribution requirement of subpara-  
25           graph (A) for any taxable year, then, notwith-

1 standing subsection (e)(28), a tax shall be im-  
2 posed on the trust under section 1(e) on an  
3 amount of taxable income equal to the amount  
4 of such failure.

5 “(C) DESIGNATION OF DISTRIBUTION.—  
6 Solely for purposes of meeting the requirements  
7 of this paragraph, a Settlement Trust may elect  
8 to treat any distribution (or portion) during the  
9 65-day period following the close of any taxable  
10 year as made on the last day of such taxable  
11 year. Any such distribution (or portion) may  
12 not be taken into account under this paragraph  
13 for any other taxable year.

14 “(D) ADJUSTED TAXABLE INCOME.—For  
15 purposes of this paragraph, the term ‘adjusted  
16 taxable income’ means taxable income deter-  
17 mined under section 641(b) without regard to  
18 any deduction under section 651 or 661.

19 “(5) TAX TREATMENT OF DISTRIBUTIONS TO  
20 BENEFICIARIES.—

21 “(A) ELECTING TRUST.—If an election is  
22 in effect under paragraph (2) for any taxable  
23 year, any distribution to a beneficiary shall be  
24 included in gross income of the beneficiary as  
25 ordinary income.

1           “(B) NONELECTING TRUSTS.—Any dis-  
2           tribution to a beneficiary from a Settlement  
3           Trust not described in subparagraph (A) shall  
4           be includible in income to the extent provided  
5           under subchapter J.

6           “(6) DEFINITIONS.—For purposes of this  
7           subsection—

8           “(A) NATIVE CORPORATION.—The term  
9           ‘Native Corporation’ has the meaning given  
10          such term by section 3(m) of the Alaska Native  
11          Claims Settlement Act (43 U.S.C. 1602(m)).

12          “(B) SETTLEMENT TRUST.—The term  
13          ‘Settlement Trust’ means a trust which con-  
14          stitutes a Settlement Trust under section 39 of  
15          the Alaska Native Claims Settlement Act (43  
16          U.S.C. 1629e).”

17          (c) WITHHOLDING ON DISTRIBUTIONS BY ELECTING  
18          ANCSA SETTLEMENT TRUSTS.—Section 3402 of the In-  
19          ternal Revenue Code of 1986 is amended by adding at the  
20          end the following new subsection:

21          “(t) TAX WITHHOLDING ON DISTRIBUTIONS BY  
22          ELECTING ANCSA SETTLEMENT TRUSTS.—

23                 “(1) IN GENERAL.—Any Settlement Trust (as  
24                 defined in section 501(p)(6)(B)) which is exempt  
25                 from income tax under section 501(c)(28) (in this

1 subsection referred to as an ‘electing trust’) and  
2 which makes a payment to any beneficiary shall de-  
3 duct and withhold from such payment a tax in an  
4 amount equal to such payment’s proportionate share  
5 of the annualized tax.

6 “(2) EXCEPTION.—The tax imposed by para-  
7 graph (1) shall not apply to any payment to the ex-  
8 tent that such payment, when annualized, does not  
9 exceed an amount equal to the sum of—

10 “(A) the basic standard deduction (as de-  
11 fined in section 63(c)) for an individual to  
12 whom section 63(c)(2)(C) applies; and

13 “(B) the exemption amount (as defined in  
14 section 151(d)).

15 “(3) ANNUALIZED TAX.—For purposes of para-  
16 graph (1), the term ‘annualized tax’ means, with re-  
17 spect to any payment, the amount of tax which  
18 would be imposed by section 1(c) (determined with-  
19 out regard to any rate of tax in excess of 31 per-  
20 cent) on an amount of taxable income equal to the  
21 excess of—

22 “(A) the annualized amount of such pay-  
23 ment, over

24 “(B) the amount determined under para-  
25 graph (2).

1           “(4) ANNUALIZATION.—For purposes of this  
2 subsection, amounts shall be annualized in the man-  
3 ner prescribed by the Secretary.

4           “(5) NO APPLICATION TO THIRD PARTY PAY-  
5 MENTS.—This subsection shall not apply in the case  
6 of a payment made, pursuant to the written terms  
7 of the trust agreement governing an electing trust,  
8 directly to third parties to provide educational, fu-  
9 neral, or medical benefits.

10           “(6) ALTERNATE WITHHOLDING PROCE-  
11 DURES.—At the election of an electing trust, the tax  
12 imposed by this subsection on any payment made by  
13 such trust shall be determined in accordance with  
14 such tables or computational procedures as may be  
15 specified in regulations prescribed by the Secretary  
16 (in lieu of in accordance with paragraphs (2) and  
17 (3)).

18           “(7) COORDINATION WITH OTHER SECTIONS.—  
19 For purposes of this chapter and so much of subtitle  
20 F as relates to this chapter, payments which are  
21 subject to withholding under this subsection shall be  
22 treated as if they were wages paid by an employer  
23 to an employee.”

1 (d) REPORTING.—Section 6041 of the Internal Rev-  
2 enue Code of 1986 is amended by adding at the end the  
3 following new subsection:

4 “(f) APPLICATION TO ALASKA NATIVE SETTLEMENT  
5 TRUSTS.—In the case of any distribution from a Settle-  
6 ment Trust (as defined in section 501(p)(6)(B)) to a bene-  
7 ficiary, this section shall apply, except that—

8 “(1) this section shall apply to such distribution  
9 without regard to the amount thereof,

10 “(2) the Settlement Trust shall include on any  
11 return or statement required by this section infor-  
12 mation as to the character of such distribution (if  
13 applicable) and the amount of tax imposed by chap-  
14 ter 1 which has been deducted and withheld from  
15 such distribution, and

16 “(3) the filing of any return or statement re-  
17 quired by this section shall satisfy any requirement  
18 to file any other form or schedule under this title  
19 with respect to distributive share information (in-  
20 cluding any form or schedule to be included with the  
21 trust’s tax return).”

22 (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years of Settlement

- 1 Trusts ending after the date of the enactment of this Act
- 2 and to contributions to such trusts after such date.

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