

106TH CONGRESS
1ST SESSION

S. 933

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.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 1999

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill;
which was read twice and referred to the Committee on Finance

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) before the due date (including ex-
19 tensions) for filing the Settlement Trust’s
20 return of tax for the 1st taxable year of
21 the Settlement Trust ending after the date
22 of the enactment of this subsection, and

23 “(ii) by attaching to such return of
24 tax a statement specifically providing for
25 such election.

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

4 “(i) shall apply to the 1st taxable year
5 described in subparagraph (B)(i) and all
6 subsequent taxable years, and

7 “(ii) may not be revoked once it is
8 made.

9 “(3) SPECIAL RULES WHERE TRANSFER RE-
10 STRICTIONS MODIFIED.—

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

18 “(i) no election may be made under
19 paragraph (2)(A) with respect to such
20 trust, and

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

23 “(I) such election is revoked as of
24 the 1st day of the taxable year fol-

1 lowing the taxable year in which such
2 disposition is first permitted, and

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

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

14 “(B) STOCK IN CORPORATION.—If—

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

22 “(ii) at any time after such dispo-
23 sition of stock is first permitted, such cor-
24 poration transfers assets to such trust,

1 clause (ii) of subparagraph (A) shall be applied
2 to such trust on and after the date of the trans-
3 fer in the same manner as if the trust per-
4 mitted dispositions of beneficial interests in the
5 trust in a manner not permitted by such section
6 7(h).

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

12 “(4) DISTRIBUTION REQUIREMENT ON ELECT-
13 ING SETTLEMENT TRUST.—

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

19 “(B) TAX IMPOSED IF INSUFFICIENT DIS-
20 TRIBUTION.—If a Settlement Trust fails to
21 meet the distribution requirement of subpara-
22 graph (A) for any taxable year, then, notwith-
23 standing subsection (e)(28), a tax shall be im-
24 posed on the trust under section 1(e) on an

1 amount of taxable income equal to the amount
2 of such failure.

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

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

17 “(5) TAX TREATMENT OF DISTRIBUTIONS TO
18 BENEFICIARIES.—

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

24 “(B) NONELECTING TRUSTS.—Any dis-
25 tribution to a beneficiary from a Settlement

1 Trust not described in subparagraph (A) shall
2 be includible in income as provided under sub-
3 chapter J.

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

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

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

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

19 “(t) TAX WITHHOLDING ON DISTRIBUTIONS BY
20 ELECTING ANCSA SETTLEMENT TRUSTS.—

21 “(1) IN GENERAL.—Any Settlement Trust (as
22 defined in section 501(p)(6)(B)) which is exempt
23 from income tax under section 501(c)(28) (in this
24 subsection referred to as an ‘electing trust’) and
25 which makes a payment to any beneficiary shall de-

1 duct and withhold from such payment a tax in an
2 amount equal to such payment's proportionate share
3 of the annualized tax.

4 “(2) EXCEPTION.—The tax imposed by para-
5 graph (1) shall not apply to any payment to the ex-
6 tent that such payment, when annualized, does not
7 exceed an amount equal to the amount in effect
8 under section 6012(a)(1)(A)(i) for taxable years be-
9 ginning in the calendar year in which the payment
10 is made.

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

18 “(A) the annualized amount of such pay-
19 ment, over

20 “(B) the amount determined under para-
21 graph (2).

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

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

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

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

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

24 “(f) APPLICATION TO ALASKA NATIVE SETTLEMENT
25 TRUSTS.—In the case of any distribution from a Settle-

1 ment Trust (as defined in section 501(p)(6)(B)) to a bene-
2 ficiary, this section shall apply, except that—

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

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

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

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years of Settlement
19 Trusts ending after the date of the enactment of this Act
20 and to contributions to such trusts after such date.

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