

105TH CONGRESS
1ST SESSION

S. 1411

To amend the Internal Revenue Code of 1986 to disallow a Federal income tax deduction for payments to the Federal Government or any State or local government in connection with any tobacco litigation or settlement and to use any increased Federal revenues to promote public health.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Mr. MACK (for himself, Mr. HARKIN, Mr. DEWINE, Mr. SANTORUM, Ms. COLLINS, Ms. SNOWE, Mr. D'AMATO, Mr. SMITH of Oregon, Mrs. BOXER, Mr. KENNEDY, Ms. FEINSTEIN, Mr. LAUTENBERG, Mr. GRAHAM, Mr. DODD, Mr. DURBIN, and Mr. WELLSTONE) 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 disallow a Federal income tax deduction for payments to the Federal Government or any State or local government in connection with any tobacco litigation or settlement and to use any increased Federal revenues to promote public health.

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

1 **SECTION 1. DEDUCTION DISALLOWED FOR CERTAIN**
 2 **TOBACCO COMPANY PAYMENTS.**

3 (a) IN GENERAL.—Section 162 of the Internal Reve-
 4 nue Code of 1986 (defining trade or business expenses)
 5 is amended by redesignating subsection (o) as subsection
 6 (p) and by inserting after subsection (n) the following new
 7 subsection:

8 “(o) CERTAIN TOBACCO COMPANY PAYMENTS NOT
 9 DEDUCTIBLE.—

10 “(1) IN GENERAL.—No deduction otherwise al-
 11 lowable shall be allowed under this chapter for any
 12 amount paid or incurred to the Federal Government
 13 or to any State or local government pursuant to any
 14 applicable tobacco judgment or settlement.

15 “(2) REPORTING OF PAYMENTS.—Any taxpayer
 16 to which paragraph (1) applies for any taxable year
 17 shall include on its return of tax imposed by this
 18 chapter for such taxable year the total amount of
 19 payments for which a deduction is not allowed and
 20 such other information as the Secretary may pre-
 21 scribe.

22 “(3) APPLICABLE TOBACCO JUDGMENT OR SET-
 23 TLEMENT.—For purposes of this subsection, the
 24 term ‘applicable tobacco judgment or settlement’
 25 means—

1 “(A) any judgment in any civil action seek-
 2 ing damages in connection with the manufac-
 3 ture or sale of any tobacco product; and

4 “(B) any settlement agreement arising out
 5 of any such civil action, including the tobacco
 6 industry settlement agreement of June 20,
 7 1997 (and any modification or successor there-
 8 of).

9 Such term shall include any law enacted to imple-
 10 ment any settlement described in subparagraph
 11 (B).”

12 (b) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
 14 this section shall apply to any payments made on or
 15 after November ____, 1997, pursuant to any judg-
 16 ment entered, or settlement agreement entered into,
 17 on or after such date.

18 (2) SPECIAL RULE FOR SETTLEMENT AGREE-
 19 MENT.—In the case of the tobacco industry settle-
 20 ment agreement of June 20, 1997, such agreement
 21 shall be treated as entered into on the date of the
 22 enactment of Federal legislation implementing the
 23 agreement.

1 **SEC. 2. NATIONAL INSTITUTES OF HEALTH TRUST FUND.**

2 (a) IN GENERAL.—Subchapter A of chapter 98 of the
3 Internal Revenue Code of 1986 (relating to trust fund
4 code) is amended by adding at the end the following new
5 section:

6 **“SEC. 9512. NATIONAL INSTITUTES OF HEALTH TRUST**
7 **FUND FOR HEALTH RESEARCH.**

8 “(a) CREATION OF TRUST FUND.—There is estab-
9 lished in the Treasury of the United States a trust fund
10 to be known as the ‘National Institutes of Health Trust
11 Fund for Health Research’ (hereafter referred to in this
12 section as the ‘Trust Fund’), consisting of such amounts
13 as may be appropriated or transferred to the Trust Fund
14 as provided in this section or section 9602(b).

15 “(b) TRANSFERS TO TRUST FUND.—There is hereby
16 appropriated to the Trust Fund an amount equivalent to
17 the net increase in revenues received in the Treasury at-
18 tributable to the application of section 162(o) as estimated
19 by the Secretary.

20 “(c) OBLIGATIONS FROM TRUST FUND.—

21 “(1) IN GENERAL.—Subject to the provisions of
22 paragraph (4), with respect to the amounts made
23 available in the Trust Fund in a fiscal year, the Sec-
24 retary of Health and Human Services shall distrib-
25 ute during any fiscal year—

1 “(A) 2 percent of such amounts to the Of-
2 fice of the Director of the National Institutes of
3 Health to be allocated at the Director’s discre-
4 tion—

5 “(i) for carrying out the responsibil-
6 ities of the Office of the Director, including
7 the Office of Research on Women’s Health
8 and the Office of Research on Minority
9 Health, the Office of Alternative Medicine,
10 the Office of Rare Disease Research, the
11 Office of Behavioral and Social Sciences
12 Research (for use for efforts to reduce to-
13 bacco use), the Office of Dietary Supple-
14 ments, and the Office for Disease Preven-
15 tion; and

16 “(ii) for construction and acquisition
17 of equipment for or facilities of or used by
18 the National Institutes of Health;

19 “(B) 2 percent of such amounts for trans-
20 fer to the National Center for Research Re-
21 sources to carry out section 1502 of the Na-
22 tional Institutes of Health Revitalization Act of
23 1993 concerning Biomedical and Behavioral Re-
24 search Facilities; and

1 “(C) the remainder of such amounts to
2 member institutes and centers, including the
3 Office of AIDS Research, of the National Insti-
4 tutes of Health in the same proportion to the
5 total amount received under this section, as the
6 amount of annual appropriations under appro-
7 priations Acts for each member institute and
8 Centers for the fiscal year bears to the total
9 amount of appropriations under appropriations
10 Acts for all member institutes and Centers of
11 the National Institutes of Health for the fiscal
12 year.

13 “(2) PLANS OF ALLOCATION.—The amounts
14 transferred under paragraph (1)(C) shall be allo-
15 cated by the Director of the National Institutes of
16 Health or the various directors of the institutes and
17 centers, as the case may be, pursuant to allocation
18 plans developed by the various advisory councils to
19 such directors, after consultation with such
20 directors.

21 “(3) GRANTS AND CONTRACTS FULLY FUNDED
22 IN FIRST YEAR.—With respect to any grant or con-
23 tract funded by amounts distributed under para-
24 graph (1), the full amount of the total obligation of
25 such grant or contract shall be funded in the first

1 year of such grant or contract, and shall remain
2 available until expended.

3 “(4) TRIGGER AND RELEASE OF MONIES AND
4 PHASE-IN.—

5 “(A) TRIGGER AND RELEASE.—No ex-
6 penditure shall be made under paragraph (1)
7 during any fiscal year in which the annual
8 amount appropriated for the National Institutes
9 of Health is less than the amount so appro-
10 priated for the prior fiscal year.

11 “(B) PHASE-IN.—The Secretary of Health
12 and Human Services shall phase in the dis-
13 tributions required under paragraph (1) so
14 that—

15 “(i) 25 percent of the amount in the
16 Trust Fund is distributed in the first fiscal
17 year for which funds are available;

18 “(ii) 50 percent of the amount in the
19 Trust Fund is distributed in the second
20 fiscal year for which funds are available;

21 “(iii) 75 percent of the amount in the
22 Trust Fund is distributed in the third fis-
23 cal year for which funds are available; and

24 “(iv) 100 percent of the amount in
25 the Trust Fund is distributed in the fourth

1 and each succeeding fiscal year for which
2 funds are available.

3 “(d) BUDGET TREATMENT OF AMOUNTS IN TRUST
4 FUND.—The amounts in the Trust Fund shall be excluded
5 from, and shall not be taken into account, for purposes
6 of any budget enforcement procedure under the Congres-
7 sional Budget Act of 1974 or the Balanced Budget and
8 Emergency Deficit Control Act of 1985.”

9 (b) CONFORMING AMENDMENT.—The table of sec-
10 tions for such subchapter A is amended by adding at the
11 end the following new item:

“Sec. 9512. National Institutes of Health Trust Fund for Health Research.”

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