

107TH CONGRESS
1ST SESSION

S. 709

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

IN THE SENATE OF THE UNITED STATES

APRIL 5, 2001

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 Alaska Native Settlement 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. SHORT TITLE.**

4 This Act may be cited as the “Alaska Native Settle-
5 ment Trust Tax Fairness Act of 2001”.

6 **SEC. 2. TAX TREATMENT AND INFORMATION REQUIRE-**
7 **MENTS OF ALASKA NATIVE SETTLEMENT**
8 **TRUSTS.**

9 (a) TREATMENT OF ALASKA NATIVE SETTLEMENT
10 TRUSTS.—Subpart A of part I of subchapter J of chapter

1 of the Internal Revenue Code of 1986 (relating to gen-
 2 eral rules for taxation of trusts and estates) is amended
 3 by adding at the end the following new section:

4 **“SEC. 646. TAX TREATMENT OF ALASKA NATIVE SETTLE-**
 5 **MENT TRUSTS.**

6 “(a) IN GENERAL.—Except as otherwise provided in
 7 this section, the provisions of this subchapter and section
 8 1(e) shall apply to all Settlement Trusts.

9 “(b) TAXATION OF INCOME OF TRUST.—Except as
 10 provided in subsection (f)(1)(B)(ii)—

11 “(1) IN GENERAL.—There is hereby imposed on
 12 the taxable income of an electing Settlement Trust,
 13 other than its net capital gain, a tax at the lowest
 14 rate specified in section 1.

15 “(2) CAPITAL GAIN.—In the case of an electing
 16 Settlement Trust with a net capital gain for the tax-
 17 able year, a tax is hereby imposed on such gain at
 18 the rate of tax which would apply to such gain if the
 19 taxpayer were subject to a tax on its other taxable
 20 income at only the lowest rate specified in section 1.

21 “(c) ONE-TIME ELECTION.—

22 “(1) IN GENERAL.—A Settlement Trust may
 23 elect to have the provisions of this section apply to
 24 the trust and its beneficiaries.

1 “(2) TIME AND METHOD OF ELECTION.—An
 2 election under paragraph (1) shall be made by the
 3 trustee of such trust—

4 “(A) on or before the due date (including
 5 extensions) for filing the Settlement Trust’s re-
 6 turn of tax for the first taxable year of such
 7 trust ending after the date of the enactment of
 8 this section, and

9 “(B) by attaching to such return of tax a
 10 statement specifically providing for such elec-
 11 tion.

12 “(3) PERIOD ELECTION IN EFFECT.—Except as
 13 provided in subsection (f), an election under this
 14 subsection—

15 “(A) shall apply to the first taxable year
 16 described in paragraph (2)(A) and all subse-
 17 quent taxable years, and

18 “(B) may not be revoked once it is made.

19 “(d) CONTRIBUTIONS TO TRUST.—

20 “(1) BENEFICIARIES OF ELECTING TRUST NOT
 21 TAXED ON CONTRIBUTIONS.—In the case of an
 22 electing Settlement Trust, no amount shall be in-
 23 cludible in the gross income of a beneficiary of such
 24 trust by reason of a contribution to such trust.

1 “(2) EARNINGS AND PROFITS.—The earnings
 2 and profits of the sponsoring Native Corporation
 3 shall not be reduced on account of any contribution
 4 to such Settlement Trust:

5 “(e) TAX TREATMENT OF DISTRIBUTIONS TO BENE-
 6 FICIARIES.—Amounts distributed by an electing Settle-
 7 ment Trust during any taxable year shall be considered
 8 as having the following characteristics in the hands of the
 9 recipient beneficiary:

10 “(1) First, as amounts excludable from gross
 11 income for the taxable year to the extent of the tax-
 12 able income of such trust for such taxable year (de-
 13 creased by any income tax paid by the trust with re-
 14 spect to the income) plus any amount excluded from
 15 gross income of the trust under section 103.

16 “(2) Second, as amounts excludable from gross
 17 income to the extent of the amount described in
 18 paragraph (1) for all taxable years for which an elec-
 19 tion is in effect under subsection (c) with respect to
 20 the trust, and not previously taken into account
 21 under paragraph (1).

22 “(3) Third, as amounts distributed by the spon-
 23 soring Native Corporation with respect to its stock
 24 (within the meaning of section 301(a)) during such
 25 taxable year and taxable to the recipient beneficiary

1 as amounts described in section 301(c)(1), to the ex-
 2 tent of current accumulated earnings and profits of
 3 the sponsoring Native Corporation as of the close of
 4 such taxable year after proper adjustment is made
 5 for all distributions made by the sponsoring Native
 6 Corporation during such taxable year.

7 “(4) Fourth, as amounts distributed by the
 8 trust in excess of the distributable net income of
 9 such trust for such taxable year.

10 Amounts distributed to which paragraph (3) applies shall
 11 not be treated as a corporate distribution subject to sec-
 12 tion 311(b), and for purposes of determining the amount
 13 of a distribution for purposes of paragraph (3) and the
 14 basis to the recipients, section 643(e) and not section
 15 301(b) or (d) shall apply.

16 “(f) SPECIAL RULES WHERE TRANSFER RESTRIC-
 17 TIONS MODIFIED.—

18 “(1) TRANSFER OF BENEFICIAL INTERESTS.—

19 If, at any time, a beneficial interest in an electing
 20 Settlement Trust may be disposed of to a person in
 21 a manner which would not be permitted by section
 22 7(h) of the Alaska Native Claims Settlement Act (43
 23 U.S.C. 1606(h)) if such interest were Settlement
 24 Common Stock—

1 “(A) no election may be made under sub-
2 section (c) with respect to such trust, and

3 “(B) if such an election is in effect as of
4 such time—

5 “(i) such election shall cease to apply
6 as of the first day of the taxable year in
7 which such disposition is first permitted,

8 “(ii) the provisions of this section
9 shall not apply to such trust for such tax-
10 able year and all taxable years thereafter,
11 and

12 “(iii) the distributable net income of
13 such trust shall be increased by the cur-
14 rent and accumulated earnings and profits
15 of the sponsoring Native Corporation as of
16 the close of such taxable year after proper
17 adjustment is made for all distributions
18 made by the sponsoring Native Corpora-
19 tion during such taxable year.

20 In no event shall the increase under clause (iii) ex-
21 ceed the fair market value of the trust’s assets as
22 of the date the beneficial interest of the trust first
23 becomes so disposable. The earnings and profits of
24 the sponsoring Native Corporation shall be adjusted
25 as of the last day of such taxable year by the

1 amount of earnings and profits so included in the
 2 distributable net income of the trust.

3 “(2) STOCK IN CORPORATION.—If—

4 “(A) the Settlement Common Stock in the
 5 sponsoring Native Corporation may be disposed
 6 of to a person in any manner not permitted by
 7 section 7(h) of the Alaska Native Claims Settle-
 8 ment Act (43 U.S.C. 1606(h)), and

9 “(B) at any time after such disposition of
 10 stock is first permitted, such corporation trans-
 11 fers assets to a Settlement Trust,
 12 paragraph (1)(B) shall be applied to such trust on
 13 and after the date of the transfer in the same man-
 14 ner as if the trust permitted dispositions of bene-
 15 ficial interests in the trust in a manner not per-
 16 mitted by such section 7(h).

17 “(3) CERTAIN DISTRIBUTIONS.—For purposes
 18 of this section, the surrender of an interest in a Na-
 19 tive Corporation or an electing Settlement Trust in
 20 order to accomplish the whole or partial redemption
 21 of the interest of a shareholder or beneficiary in
 22 such corporation or trust, or to accomplish the whole
 23 or partial liquidation of such corporation or trust,
 24 shall be deemed to be a transfer permitted by sec-

1 tion 7(h) of the Alaska Native Claims Settlement
2 Act.

3 “(g) TAXABLE INCOME.—For purposes of this title,
4 the taxable income of an electing Settlement Trust shall
5 be determined under section 641(b) without regard to any
6 deduction under section 651 or 661.

7 “(h) DEFINITIONS.—For purposes of this section—

8 “(1) ELECTING SETTLEMENT TRUST.—The
9 term ‘electing Settlement Trust’ means a Settlement
10 Trust which has made the election, effective for a
11 taxable year, described in subsection (c).

12 “(2) NATIVE CORPORATION.—The term ‘Native
13 Corporation’ has the meaning given such term by
14 section 3(m) of the Alaska Native Claims Settlement
15 Act (43 U.S.C. 1602(m)).

16 “(3) SETTLEMENT COMMON STOCK.—The term
17 ‘Settlement Common Stock’ has the meaning given
18 such term by section 3(p) of the Alaska Native
19 Claims Settlement Act (43 U.S.C. 1602(p)).

20 “(4) SETTLEMENT TRUST.—The term ‘Settle-
21 ment Trust’ means a trust that constitutes a settle-
22 ment trust under section 3(t) of the Alaska Native
23 Claims Settlement Act (43 U.S.C. 1602(t)).

24 “(5) SPONSORING NATIVE CORPORATION.—The
25 term ‘sponsoring Native Corporation’ means the Na-

1 tive Corporation which transfers assets to an elect-
 2 ing Settlement Trust.

3 “(i) SPECIAL LOSS DISALLOWANCE RULE.—Any loss
 4 that would otherwise be recognized by a shareholder upon
 5 a disposition of a share of stock of a sponsoring Native
 6 Corporation shall be reduced (but not below zero) by the
 7 per share loss adjustment factor. The per share loss ad-
 8 justment factor shall be the aggregate of all contributions
 9 to all electing Settlement Trusts sponsored by such Native
 10 Corporation made on or after the first day each trust is
 11 treated as an electing Settlement Trust expressed on a per
 12 share basis and determined as of the day of each such
 13 contribution.

14 “(j) CROSS REFERENCE.—

**“For information required with respect to electing
 Settlement Trusts and sponsoring Native Corpora-
 tions, see section 6039H.”.**

15 (b) REPORTING.—Subpart A of part III of sub-
 16 chapter A of chapter 61 of subtitle F of such Code (relat-
 17 ing to information concerning persons subject to special
 18 provisions) is amended by inserting after section 6039G
 19 the following new section:

20 **“SEC. 6039H. INFORMATION WITH RESPECT TO ALASKA NA-**
 21 **TIVE SETTLEMENT TRUSTS AND SPON-**
 22 **SORING NATIVE CORPORATIONS.**

23 “(a) REQUIREMENT.—The fiduciary of an electing
 24 Settlement Trust (as defined in section 646(h)(1)) shall

1 include with the return of income of the trust a statement
 2 containing the information required under subsection (c).

3 “(b) APPLICATION WITH OTHER REQUIREMENTS.—

4 The filing of any statement under this section shall be in
 5 lieu of the reporting requirements under section 6034A
 6 to furnish any statement to a beneficiary regarding
 7 amounts distributed to such beneficiary (and such other
 8 reporting rules as the Secretary deems appropriate).

9 “(c) REQUIRED INFORMATION.—The information re-
 10 quired under this subsection shall include—

11 “(1) the amount of distributions made during
 12 the taxable year to each beneficiary,

13 “(2) the treatment of such distribution under
 14 the applicable provision of section 646, including the
 15 amount that is excludable from the recipient bene-
 16 ficiary’s gross income under section 646, and

17 “(3) the amount (if any) of any distribution
 18 during such year that is deemed to have been made
 19 by the sponsoring Native Corporation (as defined in
 20 section 646(h)(5)).

21 “(d) SPONSORING NATIVE CORPORATION.—

22 “(1) IN GENERAL.—The electing Settlement
 23 Trust shall, on or before the date on which the
 24 statement under subsection (a) is required to be

1 filed, furnish such statement to the sponsoring Na-
 2 tive Corporation (as so defined).

3 “(2) DISTRIBUTEES.—The sponsoring Native
 4 Corporation shall furnish each recipient of a dis-
 5 tribution described in section 646(e)(3) a statement
 6 containing the amount deemed to have been distrib-
 7 uted to such recipient by such corporation for the
 8 taxable year.”.

9 (c) CLERICAL AMENDMENT.—

10 (1) The table of sections for subpart A of part
 11 I of subchapter J of chapter 1 of such Code is
 12 amended by adding at the end the following new
 13 item:

“Sec. 646. Tax treatment of Alaska Native Settlement Trusts.”.

14 (2) The table of sections for subpart A of part
 15 III of subchapter A of chapter 61 of subtitle F of
 16 such Code is amended by inserting after the item re-
 17 lating to section 6039G the following new item:

“Sec. 6039H. Information with respect to Alaska Native Settle-
 ment Trusts and sponsoring Native Corporations.”.

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years ending after the
 20 date of the enactment of this Act and to contributions
 21 made to electing Settlement Trusts for such year or any
 22 subsequent year.

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