

115TH CONGRESS
1ST SESSION

S. 1698

To amend the Internal Revenue Code of 1986 to clarify the treatment of contributions to Alaska Native Settlement Trusts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2017

Ms. MURKOWSKI (for herself and Mr. SULLIVAN) 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 treatment of contributions to Alaska Native Settlement Trusts, and for other purposes.

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 “Settlement Trust Im-

5 provement Act of 2017”.

6 **SEC. 2. EXCLUSION FOR ANCSA PAYMENTS ASSIGNED TO**
7 **ALASKA NATIVE SETTLEMENT TRUSTS.**

8 (a) IN GENERAL.—Part III of subchapter B of chap-

9 ter 1 of the Internal Revenue Code of 1986 is amended

10 by inserting before section 140 the following new section:

1 **“SEC. 139G. ASSIGNMENTS TO ALASKA NATIVE SETTLE-**
 2 **MENT TRUSTS.**

3 “(a) IN GENERAL.—In the case of a Native Corpora-
 4 tion, gross income shall not include the value of any pay-
 5 ments that would otherwise be made, or treated as being
 6 made, to such Native Corporation pursuant to, or as re-
 7 quired by, any provision of the Alaska Native Claims Set-
 8 tlement Act (43 U.S.C. 1601 et seq.), including any pay-
 9 ment that would otherwise be made to a Village Corpora-
 10 tion pursuant to section 7(j) of the Alaska Native Claims
 11 Settlement Act (43 U.S.C. 1606(j)), provided that any
 12 such payments—

13 “(1) are assigned in writing to a Settlement
 14 Trust, and

15 “(2) were not received by such Native Corpora-
 16 tion prior to the assignment described in paragraph
 17 (1).

18 “(b) INCLUSION IN GROSS INCOME.—In the case of
 19 a Settlement Trust which has been assigned payments de-
 20 scribed in subsection (a), gross income shall include such
 21 payments as and when such payments are received by such
 22 Settlement Trust pursuant to the assignment and shall
 23 have the same character as if such payments were received
 24 by the Native Corporation.

25 “(c) AMOUNT AND SCOPE OF ASSIGNMENT.—The
 26 amount and scope of any assignment under subsection (a)

1 shall be described with reasonable particularity and may
 2 either be in a percentage of one or more such payments
 3 or in a fixed dollar amount.

4 “(d) DURATION OF ASSIGNMENT; REVOCABILITY.—
 5 Any assignment under subsection (a) shall specify—

6 “(1) a duration either in perpetuity or for a pe-
 7 riod of time, and

8 “(2) whether such assignment is revocable.

9 “(e) PROHIBITION ON DEDUCTION.—Notwith-
 10 standing section 250, no deduction shall be allowed to a
 11 Native Corporation for purposes of any amounts described
 12 in subsection (a).

13 “(f) DEFINITIONS.—For purposes of this section, the
 14 terms ‘Native Corporation’ and ‘Settlement Trust’ have
 15 the same meaning given such terms under section
 16 646(h).”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
 18 tions for part III of subchapter B of chapter 1 of such
 19 Code is amended by inserting before the item relating to
 20 section 140 the following new item:

“Sec. 139G. Assignments to Alaska Native Settlement Trusts.”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2016.

1 **SEC. 3. DEDUCTION OF CONTRIBUTIONS TO ALASKA NA-**
 2 **TIVE SETTLEMENT TRUSTS.**

3 (a) IN GENERAL.—Part VIII of subchapter B of
 4 chapter 1 of the Internal Revenue Code of 1986 is amend-
 5 ed by adding at the end the following new section:

6 **“SEC. 250. CONTRIBUTIONS TO ALASKA NATIVE SETTLE-**
 7 **MENT TRUSTS.**

8 “(a) IN GENERAL.—In the case of a Native Corpora-
 9 tion, there shall be allowed a deduction for any contribu-
 10 tions made by such Native Corporation to a Settlement
 11 Trust (regardless of whether an election under section 646
 12 is in effect for such Settlement Trust) for which the Na-
 13 tive Corporation has made an annual election under sub-
 14 section (e).

15 “(b) AMOUNT OF DEDUCTION.—The amount of the
 16 deduction under subsection (a) shall be equal to—

17 “(1) in the case of a cash contribution (regard-
 18 less of the method of payment, including currency,
 19 coins, money order, or check), the amount of such
 20 contribution, or

21 “(2) in the case of a contribution not described
 22 in paragraph (1), the Native Corporation’s adjusted
 23 basis in the property contributed.

24 “(c) LIMITATION AND CARRYOVER.—

25 “(1) IN GENERAL.—Subject to paragraph (2),
 26 the deduction allowed under subsection (a) for any

1 taxable year shall not exceed the taxable income of
2 the Native Corporation for the taxable year in which
3 the contribution was made.

4 “(2) CARRYOVER.—If the aggregate amount of
5 contributions described in subsection (a) for any tax-
6 able year exceeds the limitation under paragraph
7 (1), such excess shall be treated as a contribution
8 described in subsection (a) in each of the 15 suc-
9 ceeding years in order of time.

10 “(d) DEFINITIONS.—For purposes of this section, the
11 terms ‘Native Corporation’ and ‘Settlement Trust’ have
12 the same meaning given such terms under section 646(h).

13 “(e) MANNER OF MAKING ELECTION.—

14 “(1) IN GENERAL.—For each taxable year, a
15 Native Corporation may elect to have this section
16 apply for such taxable year on the income tax return
17 or amended income tax return of the Native Cor-
18 poration, with such election to have effect solely for
19 such taxable year.

20 “(2) REVOCATION.—Any election made by a
21 Native Corporation pursuant to this subsection may
22 be revoked pursuant to an amended income tax re-
23 turn which has been timely filed by such Native Cor-
24 poration.

25 “(f) ADDITIONAL RULES.—

1 “(1) EARNINGS AND PROFITS.—Notwith-
2 standing section 646(d)(2), in the case of a Native
3 Corporation which claims a deduction under this sec-
4 tion for any taxable year, the earnings and profits
5 of such Native Corporation for such taxable year
6 shall be reduced by the amount of such deduction.

7 “(2) GAIN OR LOSS.—No gain or loss shall be
8 recognized by the Native Corporation with respect to
9 a contribution of property for which a deduction is
10 allowed under this section.

11 “(3) INCOME.—Subject to subsection (g), a Set-
12 tlement Trust shall report income in the amount of
13 any deduction allowed under this section in the tax-
14 able year in which the Settlement Trust actually re-
15 ceives such contribution.

16 “(4) PERIOD.—In determining the period that
17 a Settlement Trust has held property for which a de-
18 duction is allowed under this section, the period the
19 Native Corporation has held such property shall be
20 included.

21 “(5) BASIS.—The basis that a Settlement Trust
22 has for which a deduction is allowed under this sec-
23 tion shall be equal to the adjusted basis of the Na-
24 tive Corporation in such property immediately before
25 such contribution.

1 “(6) PROHIBITION.—No deduction shall be al-
 2 lowed under this section with respect to any con-
 3 tributions made to a Settlement Trust which are in
 4 violation of subsection (a)(2) or (c)(2) of section 39
 5 of the Alaska Native Claims Settlement Act (43
 6 U.S.C. 1629e).

7 “(g) ELECTION BY SETTLEMENT TRUST TO DEFER
 8 INCOME RECOGNITION.—

9 “(1) IN GENERAL.—In the case of a contribu-
 10 tion which consists of property other than cash, a
 11 Settlement Trust may elect to defer recognition of
 12 any income related to such property until the sale or
 13 exchange of such property, in whole or in part, by
 14 the Settlement Trust.

15 “(2) TREATMENT.—In the case of property de-
 16 scribed in paragraph (1), any income or gain re-
 17 ceived by the Settlement Trust upon sale or ex-
 18 change of such property shall be treated as—

19 “(A) for such amount of the income or
 20 gain as is equal to or less than the amount of
 21 income deferred pursuant to this subsection, or-
 22 dinary income, and

23 “(B) for any amounts of the income or
 24 gain which are in excess of the amount of in-
 25 come deferred pursuant to this subsection, hav-

ing the same character as if this subsection did not apply.

“(3) ELECTION.—

“(A) IN GENERAL.—For each taxable year, a Settlement Trust may elect to apply this subsection for any property described in paragraph (1) which was contributed during such year. Any property to which the election applies shall be identified and described with reasonable particularity on the income tax return or amended income tax return of the Settlement Trust, with such election to have effect solely for such taxable year.

“(B) REVOCATION.—Any election made by a Settlement Trust pursuant to this subsection may be revoked pursuant to an amended income tax return which has been timely filed by such Settlement Trust.

“(C) CERTAIN DISPOSITIONS.—

“(i) IN GENERAL.—In the case of any property for which an election is in effect under this subsection and which is disposed of within the first taxable year subsequent to the taxable year in which such

property was contributed to the Settlement
Trust—

“(I) such election shall be voided
as to such property,

“(II) the Settlement Trust shall
be required to file an amended return
for the taxable year in which such
property was contributed, and

“(III) the Settlement Trust shall
pay any tax applicable to such prop-
erty, including interest and a penalty
equal to 10 percent of the amount of
such tax.

“(ii) ASSESSMENT.—Notwithstanding
section 6501(a), any amount described in
subclause (III) of clause (i) may be as-
sessed, or a proceeding in court with re-
spect to such amount may be initiated
without assessment, within 4 years after
the date on which the return making the
election under this subsection for such
property was filed.”.

(b) CONFORMING AMENDMENT.—The table of sec-
tions for part VIII of subchapter B of chapter 1 of the

1 Internal Revenue Code of 1986 is amended by adding at
 2 the end the following new item:

“Sec. 250. Contributions to Alaska Native Settlement Trusts.”.

3 (c) PERMISSIVE AMENDMENTS TO TRUST AGREE-
 4 MENTS ESTABLISHING SETTLEMENT TRUSTS.—

5 (1) IN GENERAL.—Notwithstanding any provi-
 6 sion of law, including any provision of the Alaska
 7 Native Claims Settlement Act (43 U.S.C. 1601 et
 8 seq.), Alaska State law, or the terms of any trust
 9 agreement of a Settlement Trust (as defined under
 10 section 3(t) of the Alaska Native Claims Settlement
 11 Act (43 U.S.C. 1602(t))), the terms of any trust
 12 agreement of a Settlement Trust may, within the 1-
 13 year period following the date of the enactment of
 14 this Act, be amended as necessary to allow such
 15 Trust to make an election described in subsection
 16 (g) of section 250 of the Internal Revenue Code of
 17 1986 (as added by subsection (a)).

18 (2) AMENDMENT.—An amendment described in
 19 paragraph (1) shall be enacted pursuant to one or
 20 more agreements between the Native Corporation
 21 that established the Settlement Trust and the trust-
 22 ees of such Trust and shall not require any vote by
 23 the beneficiaries of such Trust or the shareholders
 24 of such Native Corporation.

1 (3) REGISTRATION STATEMENT.—Any Settle-
2 ment Trust which was registered in accordance with
3 Alaska State law prior to the date of the enactment
4 of an amendment described in paragraph (1) shall
5 not be required to file a new or amended registration
6 statement to reflect such amendment.

7 (d) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to taxable years for which
10 the period of limitation on refund or credit under
11 section 6511 of the Internal Revenue Code of 1986
12 has not expired.

13 (2) ONE-YEAR WAIVER OF STATUTE OF LIMITA-
14 TIONS.—If the period of limitation on a credit or re-
15 fund resulting from the amendments made by sub-
16 section (a) expires before the end of the 1-year pe-
17 riod beginning on the date of the enactment of this
18 Act, refund or credit of such overpayment (to the ex-
19 tent attributable to such amendments) may, never-
20 theless, be made or allowed if claim therefor is filed
21 before the close of such 1-year period.

1 **SEC. 4. INFORMATION REPORTING FOR DEDUCTIBLE CON-**
 2 **TRIBUTIONS TO ALASKA NATIVE SETTLE-**
 3 **MENT TRUSTS.**

4 (a) IN GENERAL.—Section 6039H of the Internal
 5 Revenue Code of 1986 is amended—

6 (1) in the heading, by striking “**SPON-**
 7 **SORING**”, and

8 (2) by adding at the end the following new sub-
 9 section:

10 “(e) DEDUCTIBLE CONTRIBUTIONS BY NATIVE COR-
 11 PORATIONS TO ALASKA NATIVE SETTLEMENT TRUSTS.—

12 “(1) IN GENERAL.—Any Native Corporation (as
 13 defined in subsection (m) of section 3 of the Alaska
 14 Native Claims Settlement Act (43 U.S.C. 1602(m)))
 15 which has made a contribution to a Settlement
 16 Trust (as defined in subsection (t) of such section)
 17 to which an election under subsection (e) of section
 18 250 applies shall provide such Settlement Trust with
 19 a statement regarding such election not later than
 20 January 31 of the calendar year subsequent to the
 21 calendar year in which the contribution was made.

22 “(2) CONTENT OF STATEMENT.—The state-
 23 ment described in paragraph (1) shall include—

24 “(A) the total amount of contributions to
 25 which the election under subsection (e) of sec-
 26 tion 250 applies,

1 “(B) for each contribution, whether such
2 contribution was in cash,

3 “(C) for each contribution which consists
4 of property other than cash, the date that such
5 property was acquired by the Native Corpora-
6 tion and the adjusted basis of such property on
7 the date such property was contributed to the
8 Settlement Trust,

9 “(D) the date on which each contribution
10 was made to the Settlement Trust, and

11 “(E) such information as the Secretary de-
12 termines to be necessary or appropriate for the
13 identification of each contribution and the accu-
14 rate reporting of income relating to such con-
15 tributions by the Settlement Trust.”.

16 (b) CONFORMING AMENDMENT.—The item relating
17 to section 6039H in the table of sections for subpart A
18 of part III of subchapter A of chapter 61 of the Internal
19 Revenue Code of 1986 is amended to read as follows:

“Sec. 6039H. Information With Respect to Alaska Native Settlement Trusts
and Native Corporations.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2016.

1 **SEC. 5. STATUTORY CONSTRUCTION.**

2 This Act is remedial Indian legislation enacted under
3 the plenary authority of the Congress under the Constitu-
4 tion of the United States to regulate Indian affairs, and
5 any ambiguities in section 139F or 250 of the Internal
6 Revenue Code of 1986, as added by this Act, shall be re-
7 solved in favor of Native Corporations attempting to ex-
8 clude income or claim a deduction thereunder.

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