

105TH CONGRESS
2D SESSION

S. 2065

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

MAY 12, 1998

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 SETTLEMENT TRUST.—Section 501 of such Code is
8 amended by redesignating subsection (p) as subsection (q)
9 and by inserting after subsection (o) the following new
10 subsection:

11 “(p) SPECIAL RULES FOR ALASKA SETTLEMENT
12 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) CONVEYANCE TO TRUST.—No
17 amount shall be includible in the gross income
18 of a beneficiary of the Settlement Trust by rea-
19 son of a contribution to the Settlement Trust
20 (without regard to whether an election is in ef-
21 fect under paragraph (2)).

22 “(B) ELECTING TRUST.—If an election is
23 in effect under paragraph (2) for any taxable
24 year, then except as provided in this subsection,
25 the provisions of subchapter J and section 1(e)

1 shall not apply to the Settlement Trust and its
2 beneficiaries.

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

8 “(2) ELECTION.—

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

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

16 “(i) before the due date (including ex-
17 tensions) for filing the Settlement Trust’s
18 return of tax for the 1st taxable year to
19 which such election is to apply, and

20 “(ii) by attaching to such return of
21 tax a statement specifically providing for
22 such election.

23 “(C) PERIOD ELECTION IN EFFECT.—Ex-
24 cept as provided in subparagraph (D), an elec-

1 tion under subparagraph (A), once made, shall
2 be irrevocable.

3 “(D) ELECTION REVOKED FOR FAILURE
4 TO MEET TRANSFER RESTRICTION.—

5 “(i) IN GENERAL.—An election under
6 subparagraph (A) is revoked if, at any
7 time after the 1st day of the 1st taxable
8 year to which such election applies, the
9 trust permits any disposition of a bene-
10 ficial interest in the trust which would not
11 be permitted under section 7(h) of the
12 Alaska Native Claims Settlement Act (43
13 U.S.C. 1606(h)) if such beneficial interest
14 were Settlement Common Stock.

15 “(ii) TIME ELECTION REVOKED.—The
16 revocation under clause (i) shall take effect
17 on the 1st day of the taxable year in which
18 the failure occurs.

19 “(iii) NO FURTHER ELECTION.—If an
20 election is revoked under clause (i), the
21 Settlement Trust (or any successor) may
22 not make any election under this para-
23 graph for the taxable year of revocation or
24 any subsequent taxable year.

1 “(3) DISTRIBUTION REQUIREMENT ON ELECT-
2 ING SETTLEMENT TRUST.—

3 “(A) IN GENERAL.—If an election is in ef-
4 fect under paragraph (2) for any taxable year,
5 a Settlement Trust shall distribute at least 55
6 percent of its adjusted taxable income for such
7 taxable year.

8 “(B) TAX IMPOSED IF INSUFFICIENT DIS-
9 TRIBUTION.—If a Settlement Trust fails to
10 meet the distribution requirement of subpara-
11 graph (A) for any taxable year, then, notwith-
12 standing subsection (c)(28), a tax shall be im-
13 posed on the trust under section 1(e) on an
14 amount of taxable income equal to the amount
15 of such failure.

16 “(C) DESIGNATION OF DISTRIBUTION.—
17 Solely for purposes of meeting the requirements
18 of this paragraph, a Settlement Trust may elect
19 to treat any distribution (or portion) during the
20 12-month period following the close of any tax-
21 able year as made on the last day of such tax-
22 able year. Any such distribution (or portion)
23 may not be taken into account under this para-
24 graph for any other taxable year.

1 “(D) ADJUSTED TAXABLE INCOME.—For
 2 purposes of this paragraph, the term ‘adjusted
 3 taxable income’ means taxable income deter-
 4 mined under section 641(b) without regard to
 5 any deduction under section 651 or 661.

6 “(4) TAX TREATMENT OF DISTRIBUTIONS TO
 7 BENEFICIARIES.—

8 “(A) ELECTING TRUST.—If an election is
 9 in effect under paragraph (2) for any taxable
 10 year, any distribution to a beneficiary shall be
 11 included in gross income of the beneficiary as
 12 ordinary income.

13 “(B) OTHER TRUSTS.—Any distribution to
 14 a beneficiary from a Settlement Trust not de-
 15 scribed in subparagraph (A) shall—

16 “(i) be included in gross income of the
 17 beneficiary as ordinary income to the ex-
 18 tent allocable to the earnings and profits
 19 account under subparagraph (C), and

20 “(ii) be includible in income as pro-
 21 vided under subchapter J to the extent not
 22 so allocable.

23 “(C) EARNINGS AND PROFITS ACCOUNT.—

24 “(i) IN GENERAL.—Each Settlement
 25 Trust shall establish an earnings and prof-

1 its account for purposes of accounting for
2 earnings and profits transferred from an
3 Alaska Native Corporation by reason of a
4 contribution to the trust.

5 “(ii) INCREASES.—The account shall
6 be increased each time a contribution is
7 made by an Alaska Native Corporation to
8 the Settlement Trust. Such increase shall
9 be equal to the lesser of—

10 “(I) the amount of the contribu-
11 tion, or

12 “(II) the earnings and profits of
13 the Alaska Native Corporation, deter-
14 mined as of the close of the taxable
15 year in which the contribution was
16 made and without regard to the con-
17 tribution.

18 For purposes of this clause, all contribu-
19 tions during a taxable year shall be treated
20 as 1 contribution.

21 “(iii) DECREASES.—The account shall
22 be decreased by any distribution by the
23 Settlement Fund to its beneficiaries.

24 “(iv) TAXATION.—For purposes of
25 subparagraph (B), until such time as the

1 balance in the account is zero, all distribu-
2 tions to beneficiaries during a taxable year
3 shall be treated as allocable to the account
4 for purposes of subparagraph (B)(i).
5 Thereafter, all such distributions shall be
6 taxable as provided in subparagraph
7 (B)(ii) until such time as there is an in-
8 crease in the balance of the account.

9 “(D) REDUCTION IN EARNINGS AND PROF-
10 ITS.—The earnings and profits of an Alaska
11 Native Corporation shall be reduced by the
12 amount of the earnings and profits transferred
13 to the account under subparagraph (C).

14 “(5) VOLUNTARY WITHHOLDING.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of law, a beneficiary of a Settle-
17 ment Trust (whether or not an election under
18 paragraph (2) is in effect) may elect to have
19 Federal income tax withheld on distributions
20 from the Settlement Trust to the beneficiary.

21 “(B) ELECTION.—An election under sub-
22 paragraph (A) shall—

23 “(i) be made to the Settlement Trust
24 in writing, and

1 “(ii) specify the percentage (not great-
2 er than 15 percent) of the distributions to
3 be withheld.

4 Such election may be revoked or modified with
5 respect to distributions made after the revoca-
6 tion or modification.

7 “(6) SETTLEMENT TRUST.—For purposes of
8 this section, the term ‘Settlement Trust’ means a
9 trust which constitutes a Settlement Trust under
10 section 39 of the Alaska Native Claims Settlement
11 Act (43 U.S.C. 1629e).”

12 (c) REPORTING.—Section 6041 of such Code is
13 amended by adding at the end the following new sub-
14 section:

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

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

21 “(2) the Settlement Trust shall include on any
22 return or statement required by this section infor-
23 mation as to the character of such distribution (if
24 applicable) and the amount of tax imposed by chap-

1 ter 1 deducted and withheld from such distribution,
2 and

3 “(3) the filing of any return or statement re-
4 quired by this section shall satisfy any requirement
5 to file any other form or schedule under this title
6 with respect to distributive share information (in-
7 cluding any form or schedule included with the
8 trust’s tax return).”

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to taxable years of Settle-
12 ment Trusts beginning after December 31, 1996,
13 and to contributions to such trusts after such date.

14 (2) REQUIREMENT FOR ELECTION.—An elec-
15 tion under section 501(p)(2) of the Internal Revenue
16 Code of 1986 for a taxable year beginning in 1997
17 shall not be treated as failing to meet the require-
18 ments of section 501(p)(2)(B) of such Code if such
19 election is filed with the return of tax for the first
20 taxable year after such taxable year.

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