

The legislation starts on the next page.

If viewing this document in your web browser from the ANCSA Resource Center, click "back" to return to the ANCSA Resource Center. Otherwise, to access the ANCSA Resource Center direct your browser to: <http://www.lbblawyers.com/anca.htm>.

Compliments of Landye Bennett Blumstein LLP.

No copyright claimed to original governmental works.

106TH CONGRESS
1ST SESSION

H. R. 1940

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 HOUSE OF REPRESENTATIVES

MAY 25, 1999

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Ways and Means

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) on or before the due date (includ-
19 ing extensions) for filing the Settlement
20 Trust’s return of tax for the 1st taxable
21 year of the Settlement Trust ending after
22 the date of the enactment of this sub-
23 section, and

1 “(ii) by attaching to such return of
2 tax a statement specifically providing for
3 such election.

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

7 “(i) shall apply to the 1st taxable year
8 described in subparagraph (B)(i) and all
9 subsequent taxable years, and

10 “(ii) may not be revoked once it is
11 made.

12 “(3) SPECIAL RULES WHERE TRANSFER RE-
13 STRICTIONS MODIFIED.—

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

21 “(i) no election may be made under
22 paragraph (2)(A) with respect to such
23 trust, and

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

1 “(I) such election is revoked as of
2 the 1st day of the taxable year fol-
3 lowing the taxable year in which such
4 disposition is first permitted, and

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

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

16 “(B) STOCK IN CORPORATION.—If—

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

1 “(ii) at any time after such disposi-
2 tion of stock is first permitted, such cor-
3 poration transfers assets to such trust,
4 clause (ii) of subparagraph (A) shall be applied
5 to such trust on and after the date of the trans-
6 fer in the same manner as if the trust per-
7 mitted dispositions of beneficial interests in the
8 trust in a manner not permitted by such section
9 7(h).

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

15 “(4) DISTRIBUTION REQUIREMENT ON ELECT-
16 ING SETTLEMENT TRUST.—

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

22 “(B) TAX IMPOSED IF INSUFFICIENT DIS-
23 TRIBUTION.—If a Settlement Trust fails to
24 meet the distribution requirement of subpara-
25 graph (A) for any taxable year, then, notwith-

1 standing subsection (e)(28), a tax shall be im-
2 posed on the trust under section 1(e) on an
3 amount of taxable income equal to the amount
4 of such failure.

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

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

19 “(5) TAX TREATMENT OF DISTRIBUTIONS TO
20 BENEFICIARIES.—

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

1 “(B) NONELECTING TRUSTS.—Any dis-
2 tribution to a beneficiary from a Settlement
3 Trust not described in subparagraph (A) shall
4 be includible in income to the extent provided
5 under subchapter J.

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

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

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

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

21 “(t) TAX WITHHOLDING ON DISTRIBUTIONS BY
22 ELECTING ANCSA SETTLEMENT TRUSTS.—

23 “(1) IN GENERAL.—Any Settlement Trust (as
24 defined in section 501(p)(6)(B)) which is exempt
25 from income tax under section 501(c)(28) (in this

1 subsection referred to as an ‘electing trust’) and
2 which makes a payment to any beneficiary shall de-
3 duct and withhold from such payment a tax in an
4 amount equal to such payment’s proportionate share
5 of the annualized tax.

6 “(2) EXCEPTION.—The tax imposed by para-
7 graph (1) shall not apply to any payment to the ex-
8 tent that such payment, when annualized, does not
9 exceed an amount equal to the sum of—

10 “(A) the basic standard deduction (as de-
11 fined in section 63(c)) for an individual to
12 whom section 63(c)(2)(C) applies; and

13 “(B) the exemption amount (as defined in
14 section 151(d)).

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

22 “(A) the annualized amount of such pay-
23 ment, over

24 “(B) the amount determined under para-
25 graph (2).

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

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

10 “(6) ALTERNATE WITHHOLDING PROCE-
11 DURES.—At the election of an electing trust, the tax
12 imposed by this subsection on any payment made by
13 such trust shall be determined in accordance with
14 such tables or computational procedures as may be
15 specified in regulations prescribed by the Secretary
16 (in lieu of in accordance with paragraphs (2) and
17 (3)).

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

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

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

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

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

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

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years of Settlement

- 1 Trusts ending after the date of the enactment of this Act
- 2 and to contributions to such trusts after such date.

○