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106TH CONGRESS  
1ST SESSION

# H. R. 2359

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 1999

Mr. YOUNG of Alaska (for himself, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. FROST, Ms. PELOSI, Mr. ABERCROMBIE, Mr. FOLEY, Mr. MCINNIS, Mr. UDALL of Colorado, Mr. PALLONE, Mr. WATKINS, Mr. HAYWORTH, Mr. KENNEDY of Rhode Island, Mr. SMITH of Washington, Mr. OBERSTAR, Mr. FALEOMAVAEGA, Mr. HOUGHTON, Mr. TOWNS, Ms. WATERS, Mr. NETHERCUTT, and Mr. STUPAK) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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. SHORT TITLE.**

4 This Act may be cited as the “Alaska Native Claims  
5 Settlement Act Settlement Trusts Remedial Tax Act of  
6 1999”.

1 **SEC. 2. TAX TREATMENT OF ALASKA NATIVE SETTLEMENT**  
 2 **TRUSTS.**

3 (a) TAX EXEMPTION.—Section 501(c) of the Internal  
 4 Revenue Code of 1986 is amended by adding at the end  
 5 the following new paragraph:

6 “(28) A trust which—

7 “(A) constitutes a Settlement Trust under  
 8 section 39 of the Alaska Native Claims Settle-  
 9 ment Act (43 U.S.C. 1629e), and

10 “(B) with respect to which an election  
 11 under subsection (p)(2) is in effect.”

12 (b) SPECIAL RULES RELATING TO TAXATION OF  
 13 ALASKA NATIVE SETTLEMENT TRUSTS.—Section 501 of  
 14 the Internal Revenue Code of 1986 is amended by redesignig-  
 15 nating subsection (p) as subsection (q) and by inserting  
 16 after subsection (o) the following new subsection:

17 “(p) SPECIAL RULES FOR TAXATION OF ALASKA NA-  
 18 TIVE SETTLEMENT TRUSTS.—

19 “(1) IN GENERAL.—For purposes of this title,  
 20 the following rules shall apply in the case of a Set-  
 21 tlement Trust:

22 “(A) ELECTING TRUST.—If an election  
 23 under paragraph (2) is in effect for any taxable  
 24 year—

25 “(i) no amount shall be includible in  
 26 the gross income of a beneficiary of the

1 Settlement Trust by reason of a contribu-  
2 tion to the Settlement Trust made during  
3 such taxable year, and

4 “(ii) except as provided in this sub-  
5 section, the provisions of subchapter J and  
6 section 1(e) shall not apply to the Settle-  
7 ment Trust and its beneficiaries for such  
8 taxable year.

9 “(B) NONELECTING TRUST.—If an elec-  
10 tion is not in effect under paragraph (2) for  
11 any taxable year, the provisions of subchapter J  
12 and section 1(e) shall apply to the Settlement  
13 Trust and its beneficiaries for such taxable  
14 year.

15 “(2) ONE-TIME ELECTION.—

16 “(A) IN GENERAL.—A Settlement Trust  
17 may elect to have the provisions of this sub-  
18 section and subsection (c)(28) apply to the  
19 trust and its beneficiaries.

20 “(B) TIME AND METHOD OF ELECTION.—  
21 An election under subparagraph (A) shall be  
22 made—

23 “(i) on or before the due date (includ-  
24 ing extensions) for filing the Settlement  
25 Trust’s return of tax for the 1st taxable

1 year of the Settlement Trust ending after  
2 the date of the enactment of this sub-  
3 section, and

4 “(ii) by attaching to such return of  
5 tax a statement specifically providing for  
6 such election.

7 “(C) PERIOD ELECTION IN EFFECT.—Ex-  
8 cept as provided in paragraph (3), an election  
9 under subparagraph (A)—

10 “(i) shall apply to the 1st taxable year  
11 described in subparagraph (B)(i) and all  
12 subsequent taxable years, and

13 “(ii) may not be revoked once it is  
14 made.

15 “(3) SPECIAL RULES WHERE TRANSFER RE-  
16 STRICTIONS MODIFIED.—

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

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

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

6 “(I) such election is revoked as of  
7 the 1st day of the taxable year fol-  
8 lowing the taxable year in which such  
9 disposition is first permitted, and

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

18 The tax imposed by clause (ii)(II) shall be in  
19 lieu of any other tax imposed by this chapter  
20 for the taxable year.

21 “(B) STOCK IN CORPORATION.—If—

22 “(i) the Settlement Common Stock in  
23 any Native Corporation which transferred  
24 assets to a Settlement Trust making an  
25 election under paragraph (2)(A) may be

1 disposed of in a manner not permitted by  
2 section 7(h) of the Alaska Native Claims  
3 Settlement Act (43 U.S.C. 1606(h)), and

4 “(ii) at any time after such dispo-  
5 sition of stock is first permitted, such cor-  
6 poration transfers assets to such trust,  
7 clause (ii) of subparagraph (A) shall be applied  
8 to such trust on and after the date of the trans-  
9 fer in the same manner as if the trust per-  
10 mitted dispositions of beneficial interests in the  
11 trust in a manner not permitted by such section  
12 7(h).

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

18 “(4) DISTRIBUTION REQUIREMENT ON ELECT-  
19 ING SETTLEMENT TRUST.—

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

1           “(B) TAX IMPOSED IF INSUFFICIENT DIS-  
2           TRIBUTION.—If a Settlement Trust fails to  
3           meet the distribution requirement of subpara-  
4           graph (A) for any taxable year, then, notwith-  
5           standing subsection (e)(28), a tax shall be im-  
6           posed on the trust under section 1(e) on an  
7           amount of taxable income equal to the amount  
8           of such failure.

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

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

23          “(5) TAX TREATMENT OF DISTRIBUTIONS TO  
24          BENEFICIARIES.—



1           “(A) ELECTING TRUST.—If an election is  
2           in effect under paragraph (2) for any taxable  
3           year, any distribution to a beneficiary shall be  
4           included in gross income of the beneficiary as  
5           ordinary income.

6           “(B) NONELECTING TRUSTS.—Any dis-  
7           tribution to a beneficiary from a Settlement  
8           Trust not described in subparagraph (A) shall  
9           be includible in income to the extent provided  
10          under subchapter J.

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

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

17               “(B) SETTLEMENT TRUST.—The term  
18               ‘Settlement Trust’ means a trust which con-  
19               stitutes a Settlement Trust under section 39 of  
20               the Alaska Native Claims Settlement Act (43  
21               U.S.C. 1629e).”

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

1       “(t) TAX WITHHOLDING ON DISTRIBUTIONS BY  
2 ELECTING ANCSA SETTLEMENT TRUSTS.—

3           “(1) IN GENERAL.—Any Settlement Trust (as  
4 defined in section 501(p)(6)(B)) which is exempt  
5 from income tax under section 501(c)(28) (in this  
6 subsection referred to as an ‘electing trust’) and  
7 which makes a payment to any beneficiary shall de-  
8 duct and withhold from such payment a tax in an  
9 amount equal to such payment’s proportionate share  
10 of the annualized tax.

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

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

18           “(B) the exemption amount (as defined in  
19 section 151(d)).

20           “(3) ANNUALIZED TAX.—For purposes of para-  
21 graph (1), the term ‘annualized tax’ means, with re-  
22 spect to any payment, the amount of tax which  
23 would be imposed by section 1(c) (determined with-  
24 out regard to any rate of tax in excess of 31 per-

1 cent) on an amount of taxable income equal to the  
2 excess of—

3 “(A) the annualized amount of such pay-  
4 ment, over

5 “(B) the amount determined under para-  
6 graph (2).

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

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

16 “(6) ALTERNATE WITHHOLDING PROCE-  
17 DURES.—At the election of an electing trust, the tax  
18 imposed by this subsection on any payment made by  
19 such trust shall be determined in accordance with  
20 such tables or computational procedures as may be  
21 specified in regulations prescribed by the Secretary  
22 (in lieu of in accordance with paragraphs (2) and  
23 (3)).

24 “(7) COORDINATION WITH OTHER SECTIONS.—  
25 For purposes of this chapter and so much of subtitle

1 F as relates to this chapter, payments which are  
2 subject to withholding under this subsection shall be  
3 treated as if they were wages paid by an employer  
4 to an employee.”

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

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

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

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

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

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years of Settlement  
3 Trusts ending after the date of the enactment of this Act  
4 and to contributions to such trusts after such date.

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