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105TH CONGRESS  
2D SESSION

# H. R. 4192

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 25, 1998

Mr. YOUNG of Alaska (for himself, Mr. MILLER of California, and Mr. HAYWORTH) 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. 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-

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

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

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

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

“(iii) NO FURTHER ELECTION.—If an election is revoked under clause (i), the Settlement Trust (or any successor) may not make any election under this paragraph for the taxable year of revocation or 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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