

Economic Growth and Tax Relief Reconciliation Act of 2001

Public Law 107-16 (HR 1836)
June 7, 2001

An Act to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Title VI -- Pension and Individual Retirement Arrangement Provisions

Subtitle G -- Miscellaneous Provisions

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Sec. 671. Tax Treatment And Information Requirements of Alaska Native Settlement Trusts.

(a) **Treatment of Alaska Native Settlement Trusts** -- Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of trusts and estates) is amended by adding at the end the following new section:

Sec. 646. Tax Treatment of Electing Alaska Native Settlement Trusts.

(a) **In General** -- If an election under this section is in effect with respect to any Settlement Trust, the provisions of this section shall apply in determining the income tax treatment of the Settlement Trust and its beneficiaries with respect to the Settlement Trust.

(b) **Taxation of Income of Trust** -- Except as provided in subsection (f)(1)(B)(ii) -

(1) **In General** -- There is hereby imposed on the taxable income of an electing Settlement Trust, other than its net capital gain, a tax at the lowest rate specified in section 1(c).

(2) **Capital Gain** -- In the case of an electing Settlement Trust with a net capital gain for the taxable year, a tax is hereby imposed on such gain at the rate of tax which would apply to such gain if the taxpayer were subject to a tax on its other taxable income at only the lowest rate specified in section 1(c). Any such tax shall be in lieu of the income tax otherwise imposed by this chapter on such income or gain.

(c) **One-time Election** --

(1) **In General** -- A Settlement Trust may elect to have the provisions of this section apply to the trust and its beneficiaries.

(2) **Time and Method of Election** -- An election under paragraph (1) shall be made by the trustee of such trust --

(A) on or before the due date (including extensions) for filing the Settlement Trust's return of tax for the first taxable year of such trust ending after the date of the enactment of this section , and

(B) by attaching to such return of tax a statement specifically providing for such election.

(3) **Period Election in Effect** -- Except as provided in subsection (f), an election under this subsection --

(A) shall apply to the first taxable year described in paragraph (2)(A) and all subsequent taxable years, and

(B) may not be revoked once it is made.

(d) **Contributions to Trust** --

(1) **Beneficiaries of Electing Trust Not Taxed on Contributions** -- In the case of an electing Settlement Trust, no amount shall be includible in the gross income of a beneficiary of such trust by reason of a contribution to such trust.

(2) **Earnings and Profits** -- The earnings and profits of the sponsoring Native Corporation shall not be reduced on account of any contribution to such Settlement Trust.

(e) **Tax Treatment of Distributions to Beneficiaries** -- Amounts distributed by an electing Settlement Trust during any taxable year shall be considered as having the following characteristics in the hands of the recipient beneficiary:

(1) First, as amounts excludable from gross income for the taxable year to the extent of the taxable income of such trust for such taxable year (decreased by any

income tax paid by the trust with respect to the income) plus any amount excluded from gross income of the trust under section 103.

(2) Second, as amounts excludable from gross income to the extent of the amount described in paragraph (1) for all taxable years for which an election is in effect under subsection (c) with respect to the trust, and not previously taken into account under paragraph (1).

(3) Third, as amounts distributed by the sponsoring Native Corporation with respect to its stock (within the meaning of section 301(a)) during such taxable year and taxable to the recipient beneficiary as amounts described in section 301(c)(1), to the extent of current or accumulated earnings and profits of the sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

(4) Fourth, as amounts distributed by the trust in excess of the distributable net income of such trust for such taxable year.

Amounts distributed to which paragraph (3) applies shall not be treated as a corporate distribution subject to section 311(b), and for purposes of determining the amount of a distribution for purposes of paragraph (3) and the basis to the recipients, section 643(e) and not section 301 (b) or (d) shall apply.

(f) Special Rules Where Transfer Restrictions Modified --

(1) Transfer of Beneficial Interests -- If, at any time, a beneficial interest in an electing Settlement Trust may be disposed of to a person in a manner which would not be permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) if such interest were Settlement Common Stock --

(A) no election may be made under subsection (c) with respect to such trust, and

(B) if such an election is in effect as of such time --

(i) such election shall cease to apply as of the first day of the taxable year in which such disposition is first permitted,

(ii) the provisions of this section shall not apply to such trust for such taxable year and all taxable years thereafter, and

(iii) the distributable net income of such trust shall be increased by the current or accumulated earnings and profits of the sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

In no event shall the increase under clause (iii) exceed the fair market value of the trust's assets as of the date the beneficial interest of the trust first becomes so disposable. The earnings and profits of the sponsoring Native Corporation shall be adjusted as of the last day of such taxable year by the amount of earnings and profits so included in the distributable net income of the trust.

(2) Stock in Corporation -- If --

(A) stock in the sponsoring Native Corporation may be disposed of to a person in a manner which would not be permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) if such stock were Settlement Common Stock, and

(B) at any time after such disposition of stock is first permitted, such corporation transfers assets to a Settlement Trust,

paragraph (1)(B) shall be applied to such trust on and after the date of the transfer in the same manner as if the trust permitted dispositions of beneficial interests in the trust in a manner not permitted by such section 7(h).

(3) Certain Distributions -- For purposes of this section, the surrender of an interest in a Native Corporation or an electing Settlement Trust in order to accomplish the whole or partial redemption of the interest of a shareholder or beneficiary in such corporation or trust, or to accomplish the whole or partial liquidation of such corporation or trust, shall be deemed to be a transfer permitted by section 7(h) of the Alaska Native Claims Settlement Act.

(g) Taxable Income -- For purposes of this title, the taxable income of an electing Settlement Trust shall be determined under section 641(b) without regard to any deduction under section 651 or 661.

(h) Definitions -- For purposes of this section --

(1) Electing Settlement Trust -- The term "electing Settlement Trust" means a Settlement Trust which has made the election, effective for a taxable year, described in subsection (c).

(2) Native Corporation -- The term "Native Corporation" has the meaning given such term by section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) Settlement Common Stock -- The term "Settlement Common Stock" has the meaning given such term by section 3(p) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(p)).

(4) **Settlement Trust** -- The term "Settlement Trust" means a trust that constitutes a settlement trust under section 3(t) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(t)).

(5) **Sponsoring Native Corporation** -- The term "sponsoring Native Corporation" means the Native Corporation which transfers assets to an electing Settlement Trust.

(i) **Special Loss Disallowance Rule** -- Any loss that would otherwise be recognized by a shareholder upon a disposition of a share of stock of a sponsoring Native Corporation shall be reduced (but not below zero) by the per share loss adjustment factor. The per share loss adjustment factor shall be the aggregate of all contributions to all electing Settlement Trusts sponsored by such Native Corporation made on or after the first day each trust is treated as an electing Settlement Trust expressed on a per share basis and determined as of the day of each such contribution.

(j) **Cross Reference** -- For information required with respect to electing Settlement Trust and sponsoring Native Corporations, see section 6039H.

(b) **Reporting** -- Subpart A of part III of subchapter A of chapter 61 of subtitle F (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039G the following new section:

Sec. 6039h. Information with Respect to Alaska Native Settlement Trusts and Sponsoring Native Corporations.

(a) **Requirement** -- The fiduciary of an electing Settlement Trust (as defined in section 646(h)(1)) shall include with the return of income of the trust a statement containing the information required under subsection (c).

(b) **Application with Other Requirements** -- The filing of any statement under this section shall be in lieu of the reporting requirements under section 6034A to furnish any statement to a beneficiary regarding amounts distributed to such beneficiary (and such other reporting rules as the Secretary deems appropriate).

(c) **Required Information** -- The information required under this subsection shall include --

(1) the amount of distributions made during the taxable year to each beneficiary,

(2) the treatment of such distribution under the applicable provision of section 646, including the amount that is excludable from the recipient beneficiary's gross income under section 646, and

(3) the amount (if any) of any distribution during such year that is deemed to have been made by the sponsoring Native Corporation (as defined in section 646(h)(5)).

(d) Sponsoring Native Corporation --

(1) **In General** -- The electing Settlement Trust shall, on or before the date on which the statement under subsection (a) is required to be filed, furnish such statement to the sponsoring Native Corporation (as so defined).

(2) **Distributees** -- The sponsoring Native Corporation shall furnish each recipient of a distribution described in section 646(e)(3) a statement containing the amount deemed to have been distributed to such recipient by such corporation for the taxable year.

(c) Clerical Amendment --

(1) The table of sections for subpart A of part I of subchapter J of chapter 1 of such Code is amended by adding at the end the following new item: "Sec. 646. Tax treatment of electing Alaska Native Settlement Trusts."

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of subtitle F of such Code is amended by inserting after the item relating to section 6039G the following new item: "Sec. 6039H. Information with respect to Alaska Native Settlement Trusts and sponsoring Native Corporations."

(d) Effective Date -- The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act and to contributions made to electing Settlement Trusts for such year or any subsequent year.