



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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Dear

This letter is in response to your request for an information letter concerning to what extent an electric cooperative, tax-exempt as an organization described in section 501(c)(12) of the Internal Revenue Code ("Code"), is subject to the filing and reporting requirements of section 6041 of the Code related to the redemption of capital credits.

is the not-for profit national service organization representing 930 member electric systems, providing central station electric service to more than 35 million consumers in 47 states. Of these member systems, 870 are electric distribution cooperatives that allocate capital credits to their member-patrons. Most of these member-patrons are individual (non-corporate) taxpayers for whom the cooperatives provide electric utility service to their personal residences. Virtually all of the ***** electric distribution cooperative members have been recognized by the Service as tax-exempt.

Section 6041 of the Code provides that all persons engaged in a trade or business and making payments in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6044(a)(2) applies) of \$600 or more in any taxable year, shall render a true and accurate return to the Secretary under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary,

setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Section 1.6041-1(a)(i) of the Income Tax Regulations (“Regulations”) provides that except as otherwise provided in sections 1.6041-3 and 1.6041-4, every person engaged in a trade or business shall make an information return for each calendar year with respect to payments it makes during the calendar year in the course of its trade or business to another person of fixed or determinable income described in paragraph (a)(1)(i)(A) or (B) of section 1.6041-1.

Section 1.6041-1(a)(ii) of the Regulations provides that the payments described in (a)(1)(i)(A) and (B) of section 1.6041-1 shall not include any payments of amounts with respect to which an information return is required by, or may be required under authority of section 6044(a) of the Code relating to patronage dividends.

Section 6044 of the Code provides that except as otherwise provided in section 6044, every cooperative to which part 1 of subchapter T of chapter 1 applies, which makes payments of amounts described in subsection 6044(b) aggregating \$10 or more to any person during any calendar year, shall make a return according to the forms and regulations prescribed by the Secretary.

Section 1.6044-2(a) of the Regulations provides that except as provided in section 1.6044-4, every organization described in paragraph (b) of section 1.6044-2 which makes payments with respect to patronage occurring on or after the first day of the first taxable year of the organization beginning after December 31, 1962, of amounts described in section 6044-3 aggregating \$10 or more to any person during any calendar year shall make an information return on Forms 1096 and 1099 for the calendar year.

Section 1.6044-2(b)(2)(ii) of the Regulations provides that any corporation operating on a cooperative basis, which is engaged in furnishing electric energy, or providing telephone service to persons in rural areas is not an organization subject to the reporting requirements of section 1.6044-2(a).

Section 501(c)(12) of the Code exempts benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (including mutual or electric cooperatives) from taxation provided certain criteria are met.

Section 1381(a)(2)(C) of the Code states that a cooperative, engaged in furnishing electric energy or providing telephone service to persons in rural areas, is not subject to taxation under Subchapter T.

Section 1385(b)(2) of the Code provides that the amount of any patronage dividend shall not be included in gross income to the extent that such amount is attributable to personal, living or family items.

Section 1.61-5(b)(3)(i) of the Regulations provides that patronage dividends (or capital credits) are not included in taxable income if they are allocated on a patronage basis by a cooperative association with respect to supplies, equipment, or services, which were not deductible by the patron under sections 162 or 212 of the Code.

Rural electric cooperatives are not subject to the reporting requirements of section 6044 of the Code. Therefore, the requirements of section 6041 are applicable. See section 1.6044-2(b)(2)(ii) of the Regulations.

Payments by rural electric cooperatives of \$600 or more of patronage dividends in any taxable year are required to be reported under section 6041 of the Code, unless the payments are not required to be included in income by the recipient.

Individual recipients of patronage dividends will not be required to include these payments in income if the payments are attributable to personal, living or family items, not deductible under sections 162 or 212 of the Code.

Accordingly, the rural electric cooperatives will not be required to file information returns under section 6041 of the Code with regard to payments of \$600 or more of patronage dividends to their individual members who did not deduct their payment to the cooperative under sections 162 or 212. In determining whether the payments are included in the income of the individual patron, the rural electric cooperative will use the information available to it.

We hope this information will be of assistance to you. This letter is for your general information only and is not a ruling, is not binding upon the Internal Revenue Service with regard to the organization to whom it is addressed, and may not otherwise be used or cited as precedent under section 6110(k)(3) of the Code.

If you have any questions, please contact _____ (ID # _____) at _____.

Sincerely,

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Technical Group 3