



Jim Matheson
Chief Executive Officer

August 7, 2018

Ms. Hannah Hawkins
Tax Legislative Counsel
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Via email

Dear Ms. Hawkins:

I am writing to seek the assistance of the Treasury Department in addressing an unintended consequence of the Tax Cuts and Jobs Act of 2017.

Most electric cooperatives are tax exempt under Internal Revenue Code (IRC) section 501(c)(12). In order to maintain their exempt status, an electric cooperative must receive at least 85 percent of its income from its members for the sole purpose of meeting losses and expenses. A small number of electric cooperatives are taxable, but are excluded from Subchapter T under IRC section 1381(a)(2)(C).

The Tax Cuts and Jobs Act of 2017 (P.L. 115-97) amended Section 118 of the IRC to provide that contributions to a corporation by a non-shareholder government entity or civic group would not be considered capital. Under prior tax law, such contributions (except for Contributions in Aid of Construction which are excluded from capital and treated as income under the Tax Reform Act of 1986) were capital and excluded from the income of a corporation.

The amendment of IRC section 118 will have a profound impact upon electric cooperatives. Historically, electric cooperatives have received grants from a variety of federal, state and local governments to assist in providing services to their members. The terms and conditions of some grants provide that they may be used to reimburse the electric cooperative for certain operating costs associated with the purpose for which the grant was made. Electric cooperatives or entities they control or participate in may receive or benefit from grants or reimbursements for purposes such as renewable energy development, energy efficiency and conservation, economic development, storm damage or rural broadband initiatives. All such grants or reimbursements typically benefit the membership of the electric cooperative.

If a government grant or reimbursement is not capital, then the grant may be nonmember income and could jeopardize a cooperative's compliance with the 85 percent-member income requirement to maintain exempt status under IRC section 501(c)(12). Electric cooperatives described in IRC section 1381(a)(2)(C) also operate at cost on a not-for-profit basis under cooperative principles and the treatment of grants and reimbursements as income may impair their ability to use the full value of the grant to benefit their members.

The National Rural Electric Cooperative Association (NRECA) is the national service organization for America's Electric Cooperatives. NRECA represents the interests of the nation's more than 900 rural

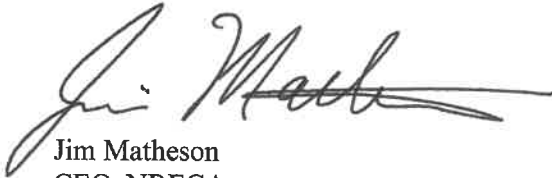
electric cooperatives responsible for keeping the lights on for more than 42 million people across 47 states. Electric cooperatives are corporations that operate on a not-for-profit basis under cooperative principles. Unlike investor owned entities, electric cooperatives are owned by the consumers they serve. Electric cooperatives operate at cost and are governed by a board of directors democratically elected by and from their membership.

To provide certainty and enable electric cooperatives to continue to fulfill their essential public service functions, we respectfully request that the IRS issue NRECA an information letter indicating that a grant or reimbursement referenced in Section 118(b)(2) would be considered member income if the purpose of the grant or reimbursement benefits the electric cooperative's members (or prospective members in the case of economic development grants).

An information letter on the nature of the income from grants or reimbursements from the IRS would provide certainty so that tax exempt electric cooperatives under section 501(c)(12) and those electric cooperatives described in section 1381(a)(2)(C) could continue to fulfill their mission of serving their membership and communities by providing them the essential elements of modern civilization.

Thank you very much for your assistance on this extremely important issue. If you have any questions, please contact Russ Wasson at (703) 402-2510 or via email at russell.wasson@nreca.coop.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Matheson", with a stylized flourish at the end.

Jim Matheson
CEO, NRECA