(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF COMMISSION REGULATED WATER UTILITIES AND THE TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION (CIAC). | ))))))) | CASE NO. GNR-W-96-4ORDER NO.  26692 |

The 104th Congress passed and President Clinton recently signed into law the Small Business Job Protection Act of 1996 (the 1996 Act).  Reference Public Law 104-188, 110 Stat. 1755 et seq.  Section 1613 of the 1996 Act (see Attachment) addresses treatment of contributions in aid of construction (CIAC) for water utilities.  Reference 110 Stat. 1848-1851.  Section 1613 of the 1996 Act returns Internal Revenue Code (IRC) Section 118 to its pre-Tax Reform Act of 1986 (TRA-86) form with respect to CIAC received by water utilities after June 12, 1996.  Under the Tax Reform Act of 1986, post January 1, 1987 contributions in aid of construction (CIAC) received by water utilities were treated as taxable income.  Reference IRC Section 118(a).  Prior to TRA-86, Section 118 treated CIAC received by water utilities as a non-taxable capital contribution.

Pursuant to Section 1613 of the 1996 Act contributions received by water utilities must satisfy certain requirements to be considered non-taxable CIAC for Internal Revenue Service (IRS) purposes.  The following is a list of requirements:

1.  CIAC must be a contribution.

2.  CIAC cannot be included in rate base for ratemaking purposes.

3.  CIAC does not include amounts paid as service charges for starting or stopping service.

4.  CIAC does not include connection fees.

5. The property must be an integral part of the gathering, treatment or commercial distribution of water, which would be 20 year property (now 25 year property for water utility property).

6.  Within two years after the year in which CIAC is received, it must be expended to acquire or construct tangible property used predominantly (i.e., 80% or more) in the trade or business of furnishing water and such property must be the same property or the same type of property for which the contribution was made;

7.  Accurate records must be kept of the dates and amounts of all contributions and expenditures.

It is to be noted that a water utility’s expenditure of amounts received as non-taxable CIAC will not give rise to any deduction or credit, and any property funded by such contributions will have an adjusted basis of zero.  Consequently, CIAC funded property may not be depreciated for federal income tax purposes.

This Order is provided to water utilities under our regulation to advise them of the change in law and to instruct them as to what changes in accounting and operations are required.  Water utilities requiring further direction or assistance regarding treatment of CIAC may contact the Commission Staff—Accounting Section (208-334-0367).

CONCLUSIONS OF LAW

Pursuant to Title 61, Idaho Code and the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq., the Commission has jurisdiction over water service providers satisfying the qualifying and definitional requirements of Idaho Code § 61-124 water system, § 61-125 water corporation, and § 61-129 public utility.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and public water utilities under the Commission’s jurisdiction are directed to modify their accounting and operational practices regarding contributions in aid of construction in order to qualify such contributions in a manner that will not be taxable.parname;enter paragraph name parname

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of  type month, then <Alt Enter>November 1996.

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J.  Walters

Commission Secretary

vld/O:GNR-W-96-4.sw

On June 6, 1988, the Commission issued Order No. 21933, which required the regulated utilities to adopt certain methods, depending upon the type of utility, for treating income taxes related to contributions.  Regarding water utilities, the Commission stated:

IT IS HEREBY ORDERED that water companies with fewer customers than Boise Water Corporation . . . shall use a full gross-up method whereby the person making the contribution in aid of construction pays the full tax obligation of the utility on the contribution, unless they exercise the option in the following paragraph.

IT IS FURTHER ORDERED that any utility may adopt the method used by Pacific Power & Light Company whereby the additional expense for the tax on the contributions in aid of construction is charged to the stockholders and has no impact upon the customers.  All tax impacts of contribution are excluded from results of operation and no additional costs are passed on to the customers.

IT IS FURTHER ORDERED that Boise Water Corporation may continue using the method approved in Order No. 20955, subject to review by the Commission. [Boise Water Corporation enters into escrow agreements with developers who have requested water main extensions and special facilities for residential development].

In addition to this Order, individual water utilities may have received specific Commission authorization with respect to CIAC.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

November 27, 1996