



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

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Dear :

This letter is in response to your request for an information letter concerning to what extent a telephone cooperative, tax-exempt under 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.

You are a tax-exempt telephone cooperative that allocates capital credits to your member-patrons. Most of your member-patrons are individual (non-corporate) taxpayers for whom you provide telephone and other telecommunications services.

Section 6041 of the Code provides in part 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, or income (other than payments to which section 6044(a)(1) 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 the 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)(1)(B)(ii) of the regulations provides in part that the payments described in subsections (a)(1)(i)(A) and (B) of section 1.6041-1 shall not include any payments 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(a)(1) of the Code provides that except as otherwise provided in section 6044, every cooperative to which Part I 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 beginning after December 31, 1962, of amounts described in section 1.6044-3 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)(iii) 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 of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (including mutual or cooperative electric companies) from federal income 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 area, 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 telephone 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)(iii) of the regulations.

Payments by rural telephone cooperatives of \$600 or more of patronage dividends in any tax 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 and 212 of the Code.

Rural telephone cooperatives will not be required to file information returns under 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 telephone cooperative will use the information available to it.

We believe this general information will be of assistance to you. This letter, however, is not a ruling and may not be relied on as such. If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Theodore R. Lieber  
Manager, Exempt Organizations  
Technical Group 3