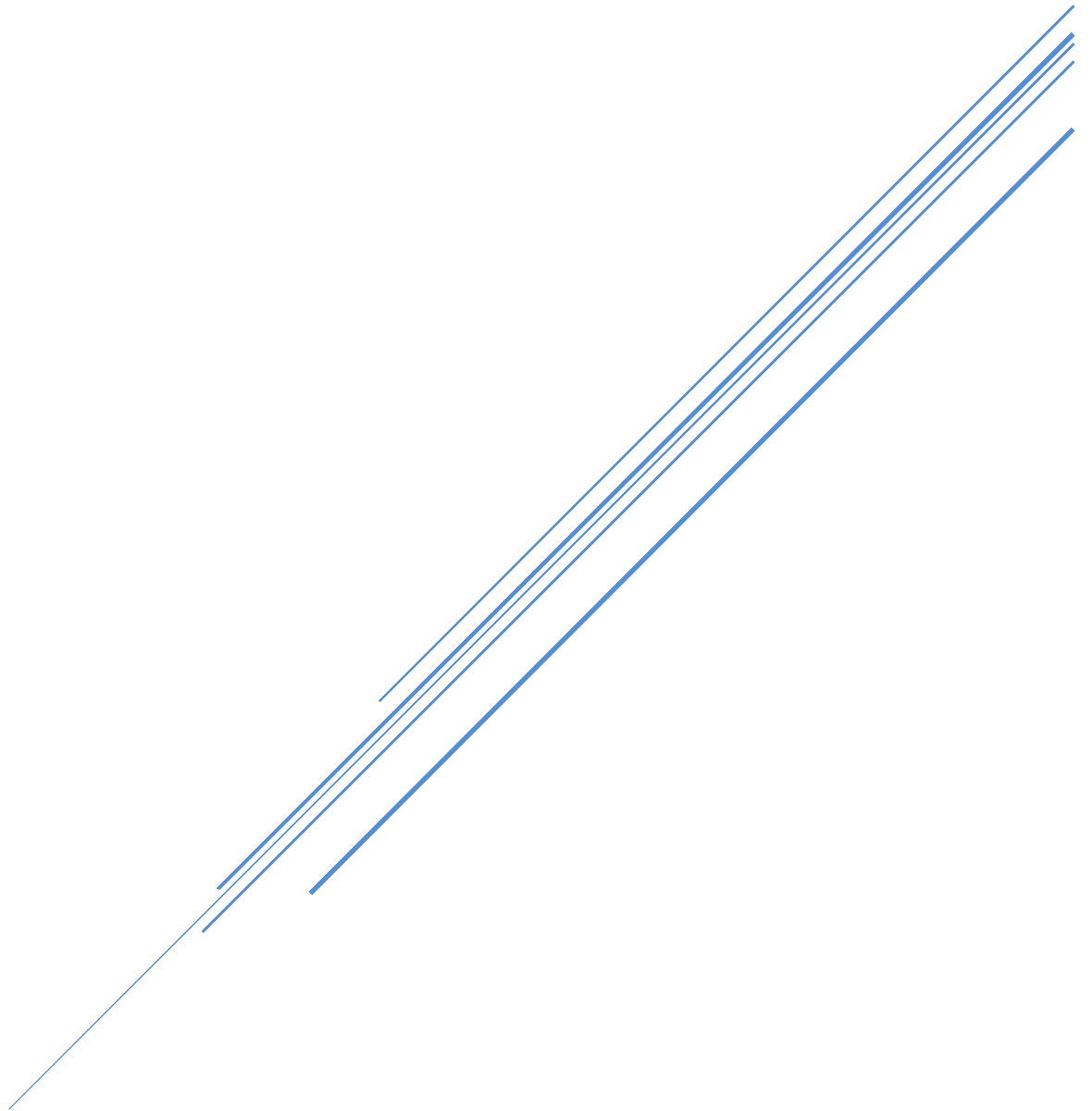


# FEDERAL TAX PENALTIES FOR WATER EFFICIENCY REBATES

WATERNOW ALLIANCE & NATIONAL LEAGUE OF CITIES



October 14th, 2016

Ali Zaidi, Associate Director for Natural Resources  
Office of Management and Budget

Christy Goldfuss, Managing Director  
Council on Environmental Quality

Jeffrey Zients, Director  
National Economic Council

cc:

*Jerry Abramson, Director  
Intergovernmental Affairs*

*Dr. John Holdren, Director  
Office of Science and Technology Policy*

**Re: Federal Tax Penalties for Local Water Efficiency Rebates**

Dear Mr. Zaidi, Ms. Goldfuss, & Mr. Zients,

As members of the National League of Cities and WaterNow Alliance, we ask for your support in resolving a federal issue of great importance to our communities. Public water utilities comprise over 80% of U.S. municipal water providers. Our ability to provide clean and reliable drinking water supplies faces growing challenges from drought, stormwater runoff, aging infrastructure, rising costs, and more. Consumer rebates and subsidies are among our most cost-effective and efficient tools for increasing water supply resilience, limiting pollutants in waterways, and keeping water affordable for citizens. Interest is growing to substantially increase these subsidies in order to scale water use efficiency and green infrastructure programs and avoid costlier, and less sustainable, alternatives for our utilities.

As our water rebate programs have grown, there has been significant uncertainty as to how the IRS will treat these rebates, raising the question as to whether such a program might subject our agencies to penalties for failure to issue 1099s to participating consumers. These programs are limited to repayment for specific out-of-pocket expenses that benefit the community far more than consumers themselves. Requiring the recipients to be taxed on these reimbursements would work as a significant financial penalty, and thus a major disincentive for consumer participation in conservation programs, fundamentally undermining their effectiveness.

In many similar situations where the tax consequences of a particular policy incentive is unclear or would create an administrative burden on taxpayers and the government, the IRS has exercised its administrative discretion to provide clarity as to whether a subsidy should be treated as taxable income.

We applaud the White House's leadership on water innovation and sustainability with its recent Water Summit, and we appreciate your outreach to communities. For our efforts to be successful, it is essential to eliminate the threat of federal tax liability for those participating in our water conservation programs. The Administration is on record supporting a tax exemption for water efficiency rebates,<sup>1</sup> but has not yet taken action to put this policy into place.

<sup>1</sup> <https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2016.pdf>

The IRS has discretion to determine that consumer subsidies of this type represent a reduction of the purchase price of the efficiency or green infrastructure installation, and is therefore not income, and that the current exemption for the exclusion of energy conservation rebate from taxable income under the Tax Code also covers water as a result of the “energy water nexus.” Various other avenues for administrative remedies have been provided to you and your staffs previously.

From our perspective as local water decision makers, it is important that the Administration act quickly as we head into what may well be another dry year in the West. Public water utilities shoulder the vast majority of the funding burden for water infrastructure. Our ability to invest significantly in the types of innovative and sustainable water solutions supported by the Administration requires that we eliminate federal disincentives.

Thank you very much for your consideration. If you have any questions please reach out to WaterNow Alliance Executive Director, Cynthia Koehler, [ck@waternow.org](mailto:ck@waternow.org) or 415.360.2999

Sincerely,

Matthew Appelbaum, Councilmember  
City of Boulder, CO

Wally Campbell, Councilmember  
Goodyear, AZ

Bob Baker, Mayor  
San Clemente, CA

Terry Catlin, Board President  
Inland Empire Utilities Association, CA

John Ballew, Chair  
Durango Utilities Commission, CO

Cathy Carlat, Mayor  
Peoria, AZ

Thomas Barnhorn, Councilmember  
City of Seminole, FL

Kathy Chandler-Henry, Board Member  
County Commissioners in Eagle County,  
CO

Cindy Blackmore, Public Works Director  
Avondale, AZ

Margaret Clark, City Councilmember  
and Former Mayor, Rosemead, CA

Frank Blanco, Water District Director  
Apache Junction Water District, AZ

Virgil Clarkson, City Councilmember and  
Former Mayor of Lacey, WA

Marshall P. Brown, Director  
Aurora Water, CO

Barbara Cleland, Councilmember  
Aurora, CO

Jerry Brown, General Manager  
Contra Costa Water District, CA

Alexander R. Coate, General Manager  
East Bay Municipal Utility District, CA

JoAnne H. Bush, Mayor  
City of Lake Village, AZ

Paul Cunningham, Councilmember  
Tucson, AZ

Larry D. Dick, Director  
Municipal Water District in Orange  
County, CA

Jenn Daniels, Mayor  
Gilbert, AZ

Thomas Davidson, Board Member  
County Commissioners in Eagle County,  
CO

Wayne Debrosky, Public Works Director  
Town of Clarkdale, Yavapai County, AZ

Shawn Dewane, Director  
Orange County Water District, CA

Rob Doba, Chief Executive Officer  
Northern Arizona Municipal Water  
Users Assn., AZ

Cynthia S Donald, Councilmember  
Bessemer, AL

Harry Dressler, Mayor  
Tamarac, FL

Tom DuBois, Councilmember  
Palo Alto, CA

Ron Duncan, General Manager  
Soquel Creek Water District, CA

Dave Edwards, Mayor Pro Tem  
Town of Palisade, CO

Bette Erikson, Councilmember  
Broomfield, CO

Kerry Ferguson, Mayor Pro Tem  
City of San Juan Capistrano, CA

Elizabeth Flegel, Water Conservation  
Coordinator, City of Mountain View, CA

Michael Foote, Waste Diversion  
Manager, Gillette, WY

Cindi Fowler, Councilmember  
City of Louisville, KY

Dan Gibbs, County Commissioner  
Summit County Government, CO

Philip Givens, General Manager  
Harris County Utility District, TX

Rolf N. Gjestebj, Chairman  
Cohasset Water Commission, MA

Lydia Glaize, Councilmember  
City of Fairburn, GA

Chris Glover, Councilmember  
City of Mesa, AZ

Bill Green, Director  
South Coast Water District, CA

Andy Hafen, Mayor  
Henderson, NV

Mami Hara, Director  
Seattle Public Utilities, WA

John Harris, Public Works Director  
Montrose, CO

Tom Heikkinen, General Manager  
City of Madison Water Utility, WI

Sam Hindi, Councilmember  
Foster City, CA

Kathy Holian, County Commissioner  
City of Santa Fe, NM

Gerry Horak, Mayor Pro Tem  
Fort Collins, CO

Robert Hunter, General Manager  
Municipal Water District of Orange  
County, CA

Richard Hyer, Councilmember  
Ogden, UT

Marvin D. Johnson, Mayor  
Independence, MO

Philip F. Johnson, Director of Public  
Works, Cortez, CO

Paul Jones, General Manager  
Eastern Water District, CA

Suzanne Jones, Mayor  
Boulder, CO

Steve Jordan, Director  
Purissima Hills Water District, CA

Stephanie Karlin, Vice Mayor  
Avondale, AZ

Michael Kasperzak, Councilmember  
Mountain View, CA

Jim Katapodis, Mayor  
Huntington Beach, CA

Harlan L Kelly. Jr., General Manager  
San Francisco Public Utilities  
Commission, CA

Jeff Kightlinger, General Manager  
Metropolitan Water District of Southern  
California, CA

John Kinnaird, Councilmember  
Waco, TX

Robin Kniech, Councilmember  
Denver, CO

Gary Knight, Councilmember  
Yuma, AZ

Marty Koller, Board of Directors  
Alameda County Water District, CA

Gary Kremen, Board Member  
Santa Clara Valley Water District, CA

Lauren Kuby, Councilmember  
Tempe, AZ

Eric R. Kuhn, General Manager  
CO River Water Conservation District,  
CO

Greg Lauer, Councilmember  
Fountain, CO

Kathleen Lewis, Mayor Pro Tem  
Grand Lake, CO

Susan Loo, Councilmember  
Louisville, CO

Joone Lopez, General Manager  
Moulton Niguel Water District, CA

Joseph M. Maestas, Councilmember  
Santa Fe, NM

Patrick J. Martin, Water Use Efficiency  
Manager Miami Dade County Water &  
Sewer Dept., FL

Frank Martinez, Board Member  
Long Beach Board of Water  
Commissioners, CA

John McAlister, Councilmember and  
Former Mayor City, Mountain View, CA

Dan McIntyre, General Manager  
Dublin San Ramon Services District, CA

Jeanne McQueeney, Board Member  
County Commissioners in Eagle County,  
CO

Mark W. Mitchell, Mayor  
Tempe, AZ

Laura Mitchell, Vice President  
Council Salisbury, MD

Steve Nasby, City Administrator  
Windom, MN

Ron Nirenberg, Councilmember  
San Antonio, TX

Sue B Osborn, Mayor  
Fenton, MI

Joanne Osbourne, Councilmember  
Goodyear, AZ

Sal Panto, Jr., Mayor  
Easton, PA

Mary Kay Papen, State Senator  
New Mexico

Karen Pfeifer, Vice Mayor  
Cottonwood, AZ

Brad Pierce, Councilmember  
Aurora, CO

Jones Portis Hattie, City Councilmember  
Fairburn, GA

Cynthia Pratt, Deputy Mayor  
Lacey, WA

Timothy H. Quinn, Executive Director  
Association of CA Water Agencies, CA

Kevin Rapp, Councilman  
South Salt Lake City, UT

Wayne Rayfield, Board President  
South Coast Water District, CA

Halla Razak, Director of Public Utilities  
San Diego, CA

Glenn Reynolds, Vice President  
Coast Side County Water District, CA

Rachel Richards, Chair of the Northwest  
CO Council of Government's Water  
Quality and Quantity Committee, CO

Charles Richardson, Councilmember  
Aurora, CO

Dave Richins, Councilmember  
Mesa, AZ

Rob Joseph, Assistant City Manager  
Montrose, CO

Regina Romero, Councilmember  
Tucson, AZ

Bob Roth, Councilmember  
Aurora (Ward V), CO

Jill Ryan, Board Member  
County Commissioners in Eagle County,  
CO

Mary Salas, Mayor  
Chula Vista, CA

Leslie Schluter, Councilmember  
Greenwood Village, CO

Shakti, City Council President  
Lakewood, CO

John Shirey, City Manager  
Sacramento, CA

Patricia Showalter, Mayor  
Mountain View, CA

Carolyn Skowrya, Councilmember  
Dillon, CO

Maureen A. Stapleton, General Manager  
San Diego County Water Authority, CA

Karn Stiegelmeier, County  
Commissioner Summit County, CO

Bill Stipp, Councilmember  
Goodyear, AZ

Nancy Sutley, Chief Sustainability &  
Economic Development Officer, Dept. of  
Water & Power, Los Angeles, CA

Richard Sykes, Director of Water and  
Natural Resources, East Bay Municipal  
Utility District, CA

Stacy Taylor, External Affairs Manager  
Mesa Water District, CA

J.R. Torbert, Utilities Water Division  
Manager, Orange County Utilities, FL

Timothy Worley, Executive Director  
American Water Works Association - CA  
and NV

Karin Uhlich, Councilmember  
Tucson, AZ

Tony Vasquez, Mayor  
Santa Monica, CA

Leroy Vaughn, Deputy Mayor Pro Tem  
Cities of Lewisville & Denton, TX

Randall Wallace, Councilmember  
Myrtle Beach, SC

John Weed, Board Member  
Alameda County Water District, CA

Vicki Westbrook, Assistant Director  
Department of Water Management  
Durham, NC

Mark Weston, Board Chair  
San Diego Water Authority, CA

Richard White, Mayor Pro-Tem  
Durango, CO

Heidi Williams, Mayor  
Thornton, CO

Matthew Zucca  
P.E. President of the Mid-Peninsula  
Water District, CA