

## **AGENDA**

### **EXECUTIVE WATER TASK FORCE**

June 16, 2011, 1:30 PM  
Room 2000, Natural Resources Complex

- I. Welcome and Introductions - Mike Styler
  
- II. Proposed Federal Legislation – Patty Dow  
**Amendments to the Internal Revenue Code to Promote  
Efficiency of Water Usage for Agriculture, Municipalities, and  
Fisheries**
  
- II. Final Decree and Forfeiture – Mark Stratford
  
- III. Other Items or Issues - All

# **Amendments to the Internal Revenue Code to Promote Efficiency of Water Usage for Agriculture, Municipalities, and Fisheries**

## Summary of Proposed Legislation

April 17, 2010

**Section 1: Title:** The Water and Energy Conservation Act of 2011

### **Section 2: Legislative Findings**

This legislation is intended to promote water efficiency and conservation by: 1) facilitating donations of water rights for charitable and conservation purposes, and 2) by facilitating the leasing and transfer of water rights to promote more efficient uses of water provided that the income from such activities is used to further the maintenance and operation of water infrastructure owned and operated by tax-exempt irrigation, ditch, and reservoir companies. The legislative findings section of this legislation will emphasize the importance of these issues to agriculture, municipalities and fisheries and will emphasize the energy savings that can be realized through more efficient use of water in the West.

### **Section 3: Amending Section 170 to Clarify that Contributions of Qualified Water Rights Are Tax-Deductible**

This amendment to Section 170(f)(3)(B) is intended to clarify that a charitable contribution deduction is permitted for donation of a perfected right to appropriate and use water in accordance with state law. In addition, a charitable contribution is permitted for the donation of an undivided interest in such water right under circumstances where the donee organization has a right to use the water for the protection or enhancement of fish habitat or the natural environment.

### **Section 4: Amending Section 501(c)(12) to Facilitate Water Leasing and Water Transfers to Promote Conservation and Efficiency**

This amendment to Section 501(c)(12) provides for relief from income tax for certain mutual ditch and irrigation companies. Specifically, those mutual ditch and irrigation companies who are unable to distribute assets to their members and thus by definition must use their income and assets in furtherance of their exempt purpose would be exempt from income tax regardless of whether 85% or more of its income was received from its members. This would allow mutual ditch companies to supplement their income from nonmember sources such as water leases, recreational leases, crossing fees and the like in order to defray the prohibitively high cost of applying water to agricultural uses. Further, subparagraph (ii) is intended to clarify a concern expressed by the Internal Revenue Service that mutual ditch and irrigation corporations operating on a one share one vote basis as opposed to a one member one vote basis might not otherwise qualify for the exemption currently provided for in Section 501(c)(12).

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**Amendments to the Internal Revenue Code to Promote Efficiency of Water Usage  
for Agriculture, Municipalities, and Fisheries**

Proposed Legislative Draft

April 17, 2010

**Section 1: Title:** The Water and Energy Conservation Act of 2011

**Section 2: Legislative Findings**

-Insert legislative findings re: conservation and efficiency in water leasing and transfers, importance to agriculture and municipalities, and the importance of in-stream flows. Emphasize energy savings from water efficiency improvements.

**Section 3: Amending Section 170 to Clarify that Contributions of  
Qualified Water Rights Are Tax-Deductible**

IN GENERAL. – Section 170<sup>1</sup> (relating to certain charitable, etc., contributions and gifts) subsection (f), paragraph (3), shall be amended to add subsection 170(f)(3)(B) (iv) as follows:

*170(f)(3)(B)(iv) a contribution of a qualified water right*

*For the purposes of this subsection, the term "qualified water right" means a perfected right to appropriate and use water in accordance with state law, or an undivided interest in such water right wherein the donee organization has a right to use the water for the protection or enhancement of fish habitat or the natural environment.*

**Section 4: Amending Section 501(c)(12) to Facilitate Water Leasing  
and Water Transfers to Promote Conservation and Efficiency**

In General. – Section 501<sup>2</sup> (relating to an exemption from tax on corporations, certain trusts, etc.) shall be amended by adding at the end of subsection (c), paragraph (12), the following new subparagraph:

- I. *In the case of a mutual ditch, reservoir or irrigation company which is prohibited from making distributions of its income and assets, other than water, by virtue of state law or prohibitions contained in its governing documents, income received shall be exempt from taxation under this subtitle regardless of whether-*
  - i. *85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses,*  
*or*

- ii. *Its member shareholders have one vote on corporate governance matters per share held in the corporation.*

<sup>1</sup> 26 USCA (Internal Revenue Code), Subtitle A, Income Taxes; Chapter 1, Normal Taxes and Surtaxes; Subchapter A, Determination of Tax Liability; Part VI, Itemized Deductions for Individuals and Corporations; Section 170, Charitable, etc., contributions and gifts.

<sup>2</sup> 26 USCA (Internal Revenue Code), Subtitle A, Income Taxes; Chapter 1, Normal Taxes and Surtaxes; Subchapter, Subchapter F, Exempt Organizations; Part I, General Rule, Section 501(c)(12).