



N A R U C  
National Association of Regulatory Utility Commissioners

June 9, 2021

Senator Ron Wyden  
Chair  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

Senator Mike Crapo  
Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

Representative Richard Neal  
Chair  
House Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

Representative Kevin Brady  
Ranking Member  
House Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

RE: *NARUC Strong Support for Senators Shaheen's and Murkowski's Legislation  
Exempting Contributions in Aid of Construction (CIAC) from Taxable Income*

Gentlemen:

Today, Senator Shaheen and Senator Murkowski reintroduced bipartisan legislation to reverse some 2017 changes to the tax code that had an unintended and uniformly negative impact. As drafted, the Shaheen-Murkowski measure amends the Internal Revenue Code to restore the exemption of Contributions in Aid of Construction (CIAC) received by regulated water and wastewater utilities. The exemption prevents taxation of such contributions that are used by providers to construct or improve water infrastructure.

The members of the National Association of Regulatory Utility Commissioners (NARUC) are charged with protecting the public interest and ensuring the provision of affordable water and wastewater services to your constituents. Our bipartisan group of experts has long supported tax-free treatment of CIAC as outlined in Senator's Shaheen and Murkowski's legislation. The taxation of CIAC was a feature of a 1986 change to the tax code. Congress subsequently corrected that 1986 change in response to advocacy from NARUC and others. Then, as part of the Tax Cuts and Jobs Act (TCJA) of 2017, the CIAC exemption was eliminated again. In response, NARUC passed the attached resolution, specifically endorsing fast action to restore the exemption.

The issue of CIAC manifests in different ways. Often, a real estate/subdivision developer will contribute funds or property to cover the costs of pipe or other upgrades needed to connect a new development to an existing water system. In some cases, the developer will construct the systems necessary to connect the new development to an existing service provider – and then

donate the infrastructure. The in-kind and/or financial contributions are termed CIAC. They protect existing customers from footing the bill to expand a water system to new areas.

The taxation of CIAC has unintended consequences. Aside from increased costs that must be collected, it is a powerful incentive for further fragmentation of the water industry. As long as CIAC is taxed, developers and others, are discouraged from joining established and well-capitalized private utility systems that have both the experience and resources to assure compliance with federal Safe Drinking Water requirements. Instead, many developers will opt to form small, development-based utilities with little resources just to avoid paying the significant taxes associated with CIAC. This eliminates available economic and safety benefits associated with the scope and scale gained if the infrastructure is instead donated via CIAC to an existing service provider. A “development-based” utility will have limited financial resources to address Safe Drinking Water Act directives. Private utilities are also discouraged from making new investments by redirecting investment dollars to pay for the tax associated with CIAC.

The time to correct this problem is now. NARUC stands ready to work with you to ensure that the proposed changes are allowed to benefit water and wastewater utilities and their consumers. If you have any questions about this letter or the attached resolution, please contact Brad Ramsay at 202.257.0568 or [jramsay@naruc.org](mailto:jramsay@naruc.org).

Respectfully,

Paul Kjellander  
NARUC President

Maria S. Bocanegra  
Chair, NARUC Committee on Water

cc: *Senator Jeanne Shaheen*  
*Senator Lisa Murkowski*  
*Congresswoman Annie Kuster*

## NARUC July 2019

### *Resolution on Contributions in Aid of Construction for Water and Wastewater Systems*

*Whereas* the discrepancy in the availability of the first-year deduction thus creates a tax incentive for developers to shift investment in water infrastructure away from regulated water utilities to non-utility companies that may lack the expertise and experience to ensure safe and reliable water and wastewater services for consumers;

*Whereas* no action has been taken by Congress to amend the TCJA and exempt CIAC from taxable income for water and wastewater utilities;

*Whereas* it has been a longstanding position of the National Association of Regulatory Utility Commissioners (“NARUC”) to support the exemption of CIAC from taxable income, as the membership has passed two resolutions on the subject with respect to prior tax laws;

*Whereas* the first of these resolutions, which the NARUC Executive Committee adopted on March 1, 1995, encouraged and supported an amendment to the Tax Reform Act of 1986, which, similar to the TCJA, eliminated capital-contribution treatment for CIAC;

*Whereas* in 1996, Congress amended the Tax Reform Act of 1986 and restored capital-contribution treatment for CIAC received by water utilities, thereby making CIAC for investments in water and wastewater systems again tax exempt;

*Whereas* the TCJA has reversed that change and has once again made CIAC taxable income to the detriment of water and wastewater utilities and water consumers across the nation; now, therefore be it

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Policy Summit in Indianapolis, Indiana supports the exemption of CIAC funds received by regulated water and wastewater utilities from income tax liability and encourages and supports an amendment to the TCJA which would exempt CIAC from income taxes for regulated water and wastewater utilities.

*Sponsored by the Committee on Water*

*Adopted by the NARUC Board of Directors on July 24, 2019*